

## TITLE 14

### Land Division Regulations

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
Chapter 1	Land Splits	2004-03 (recod) 2006-02	6/15/04 01/17/06
Chapter 2	Drainage, Development and Construction	2004-03 (recod)	6/15/04
Chapter 3	Subdivision Controls	2004-03 (recod) 2006-02	6/15/04 01/17/06

## CHAPTER 1

### Land Splits

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
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#### SEC. 14-1-1 PURPOSE.

- (a) The purpose of this chapter is to promote the public health, safety and general welfare of the community. The regulations authorized to be made are desired to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other danger; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land.
- (b) The regulations provided in this chapter have been made with reasonable consideration, among other things, of the character of the Town with a view to conserve the value of the buildings, providing the best possible environment for human habitation, and encouraging the most appropriate use of land throughout the Town.
- (c) The purposes set forth in Sec. 14-3-1(b) of the Town's Conservation Subdivision Ordinance are incorporated herein and made applicable to Land Splits.

**SEC. 14-1-2 DEFINITIONS.**

- (a) **“Certified Survey Map”** shall mean a survey map, showing a Land Split, conforming to the provisions of s. 236.34, Wis. Stats., the Town’s Code of Ordinances, and prepared by a Land Surveyor registered in the State of Wisconsin.
- (b) **“Flag Lot”** shall mean a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.
- (c) **“Land Split”** shall mean a division of land by the owner resulting in the creation of not more than 4 parcels or building sites, any one of which is 35 acres in size or less, or the division of a block, lot or outlot within a recorded subdivision plat into not more than 4 parcels or building sites without changing the exterior boundaries of said block, lot or outlot. The remnant parcel, if any, shall count as one of the parcels or building sites created by said division.
- (d) **“Land Splitter”** shall mean a person or entity making a Land Split.
- (e) **“Lot Averaging”** shall mean a design technique for Land Splits whereby the area of a lot may be reduced below the Town’s minimum area requirement, provided that the area by which it is reduced is added to another lot being created by the Land Split, and where the lots subject to the lot averaging plan are restricted from further Land Splits or Subdivisions.
- (f) **“Preliminary Certified Survey Map”** shall mean a concept plan for the proposed Land Split including the future development plan for the abutting properties, if the properties are also owned or controlled by the Land Splitter, including approximate street, driveway and building locations. If the properties are not owned by the Land Splitter, the concept plan shall show the existing street, driveway and building locations on the abutting properties.
- (g) **“Racine County Development Plan”** shall mean the plan identifying goals and objectives for the physical development of the county adopted by the Racine County Board pursuant to s. 59.69, Wis. Stats.
- (h) **“Road, Street or Highway”** shall mean a public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, road, avenue, boulevard, lane, place or other designation.
- (i) Other terms shall be as defined in s. 236.02, Wis. Stats and Sec. 14-3-2 of the Code of Ordinances for the Town of Caledonia.

**SEC. 14-1-3 JURISDICTION AND APPLICATION OF CHAPTER.**

- (a) No Land Split within the Town shall be recorded, or any street laid out, or any improvements made to the land; or any building permits issued without complying with
  - (1) The provisions of this chapter.
  - (2) Section 236.34, Wis. Stats.

- (3) The rules and procedures of the Town of Caledonia, including Sections 14-2-1 through 14-2-7 of the Code of Ordinances.
- (4) The rules and regulations of county, state and federal agencies with jurisdiction over such matters.
- (b) This chapter shall apply to Land Splits which create condominiums as defined in and subject to, Ch. 703, Wis. Stats.
- (c) The Town Board shall not approve any Land Split which is unsuitable for development due to flooding or bad drainage, adverse earth or rock formation or topography, inadequate or unsafe water supply, or other feature likely to be harmful to the health, safety or welfare of the residents and occupants of the proposed Land Split or of the community or any portion thereof.
- (d) The provisions of this chapter shall not apply to:
  - (1) Leases for a term not to exceed 10 years, mortgages or easements.
  - (2) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not created and the resulting lots are not reduced below the minimum sizes required by s. 236, Wis. Stats., or other applicable laws or ordinances.
  - (3) Cemetery plats as provided in s. 157.07, Wis. Stats.
  - (4) Assessor's plats as provided in s. 70.27 and 236.03(2), Wis. Stats.
- (e) No Land Split shall be approved that is subject to any temporary moratorium on land divisions set forth in Section 14-3-6, which section is incorporated herein by reference.

#### **SEC. 14-1-4 COMPLIANCE.**

Failure to comply with the requirements of this section, may, at the option of the Town Board or purchaser, invalidate purported transfers of titles of land, in accordance with provisions of Ch. 236, Wis. Stats.

#### **SEC. 14-1-5 APPLICATION PROCEDURE AND APPROVAL PROCESS.**

- (a) **Pre-application Conference.** Prior to the filing of an application for the approval of a certified survey map, the Land Splitter shall consult to obtain assistance in planning with the applicable sanitary sewer and water district, the Caledonia Engineering Department and the Racine County Planning and Development Department to obtain information concerning this ordinance, the Racine County Ordinances, the Racine County Development Plan, the Town Comprehensive Plan, applicable neighborhood plans, and the Official Map.
- (b) **Fees.**
  - (1) The Land Splitter shall be liable for reimbursing the Town for all administrative, planning, engineering and legal costs incurred in processing, reviewing, revising and approving any proposed certified survey map as provided in sec. 14-3-3(c). At the time of submission of the proposed certified survey map, the Land Splitter shall deposit with the Town the sum required in said section. In addition, a land division fee in

the amount of \$100.00 per parcel created shall be paid by the Land Splitter to the Town upon approval of the certified survey map.

- (2) At the time the certified survey map is approved, the Land Splitter shall pay a storm water drainage fee, as provided in Title 9 of the Town ordinances.
  - (3) The Land Splitter shall construct public improvements as required under Sections 14-2-1 through 14-2-7 of the Town Ordinances. If public improvements are required, the following securities or payments must be paid by the Land Splitter to the Town, prior to execution of the Development Agreement pursuant to Section 14-1-5(f)(5) by the Town:
    - a. Four and one-half inch asphalt binder course pavement and shouldering deposit as provided in Subsection 14-2-4(q)(3) of the Town Ordinances.
    - b. One and one-half inch asphalt pavement surface course payment as provided in Subsection 14-2-4(q)(3) of the Town Ordinances.
    - c. Performance bond security as provided in Subsection 14-2-4(q)(6) of the Town Ordinances.
  - (4) In the case of Land Splits involving public improvements, the applicant shall be responsible for all legal, administrative and engineering costs associated with the review of improvement plans and for drafting any necessary agreements and for the construction inspection and field layout work necessary during the construction of such improvements as provided in Subsection 14-2-4(q)(1) of the Town Ordinances.
- (c) **Initial Application.**
- (1) After the pre-application conference, the Land Splitter shall submit an executed pre-development agreement pursuant to Subsection 14-3-3(c), the fees required above, the checklist for Certified Survey Maps and the Preliminary Certified Survey Map to the Engineering Department for review. As a condition of further review of the Preliminary Certified Survey Map, the Land Splitter shall and hereby does grant permission for Town officials, employees and agents to enter upon the subject property in furtherance of their official duties. The Engineering Department may require the Land Splitter to submit at the time of the Initial Application a complete inventory of items listed under Section 14-1-5(e)(1)(d) through (i) as an attachment to the Preliminary Certified Survey Map or delineated directing on the map if within One Hundred (100) feet of the proposed building envelopes. The site inventory shall be completed by a professional ecologist, as qualified by the Town Board from time to time.
  - (2) The Engineering Department shall make the determination of whether the initial application is complete. Within 15 days following the filing of a complete initial application, the Engineering Department shall schedule a meeting with the Land Splitter to review the initial application.
  - (3) Staff from appropriate county and state agencies may also be requested by the Town to review the application and Land Splitter shall be liable for costs for any reviews.

- (4) The Engineering Department may also schedule a visit to the site with the Land Splitter to review the existing features of the site and the proposed certified survey map. The visit shall occur prior to or as part of the meeting.
  - (5) Within 15 days following the meeting, the Engineering Department shall provide a written report informing the Land Splitter of any additions, changes, or corrections to the Preliminary Certified Survey Map submitted as part of the initial application.
  - (6) Before submission of the final certified survey map, the Plan Commission shall review and discuss the Preliminary Certified Survey Map along with the written report from the Engineering Department. The public shall have an opportunity to speak as to the preliminary map. Notice of the meeting must be sent by regular U.S. mail to adjacent land owners at least seven days in advance of the meeting. The Land Splitter shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost of such notice shall be borne by Land Splitter.
  - (7) **Evidence of Ownership and Survey Required.** The Land Splitter shall submit a report of title from a title company acceptable to the Town showing current ownership of the property proposed to be divided and all encumbrances shall be detailed on the Certified Survey Map when submitted.
- (d) **General Requirements for Final Certified Survey Map.**
- (1) The final certified survey map shall comply with the provisions of s. 236.34, Wis. Stats., and shall describe the entire lands involved in the process of division, as well as all lands owned or controlled by the Land Splitter that are contiguous to the land to be divided.
  - (2) If any lots in the certified survey map are not served by municipal sanitary sewer, soil and site evaluations shall be submitted for approval to the County Code Administration Office and/or the Department of Commerce according to the procedure and standards established under the applicable rules of Wis. Adm. Code, Comm. 83.
  - (3) Where the Land Splitter owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the proposed final certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.
- (e) **Detailed Requirements for a Certified Survey Map.**
- (1) The final map shall correctly show on its face, in addition to the information required by s. 236.34, Wis. Stats. the following:
    - a. Date of the map.
    - b. Graphic scale, location map and north point.
    - c. Name and address of the owner, Land Splitter and surveyor.

- d. All existing buildings, drainage ditches, water courses and existing and required easements.
  - e. Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
  - f. Additional building setback lines or yards required by the Land Splitter which are more restrictive than the zoning district in which the plat is located and are to be included in recorded covenants.
  - g. Soil boring locations on sites to be served with an on-site waste disposal system.
  - h. All lands reserved for future public acquisition or dedication.
  - i. Significant natural resource features on the site, including: wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 12% or greater, drainage ways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission (“SEWRPC”) and Racine County, and other natural resource features, views and other prominent visual features.
- (f) **Final Certified Survey Map Review and Approval Procedures.** Following review and comment of the Engineering Department on the initial application, the Land Splitter or Land Splitter’s agent shall file with the Engineering Department two 22”x30” and thirty five 11”x17” copies of the proposed final certified survey map, along with an application for review and approval of a certified survey map by the Town Plan Commission. One additional copy of the certified survey map shall be provided to the Town Attorney.
- (1) **Referral.** Administrative staff and utility commission reviews. The Engineering Department shall provide copies of the certified survey map to Town department heads and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for consideration during the review process.
  - (2) **Town Plan Commission Review and Informational Meeting.** The Town Clerk shall give notice of the Plan Commission’s review of the certified survey map by listing it as an agenda item in the Plan Commission’s meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. The Town Clerk may schedule an informational meeting. Notice of the Plan Commission review and informational meeting must be sent by regular U.S. mail to all property owners within 300 feet of the proposed Land Split at least seven days in advance of the meeting. The Land Splitter shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost for such written notice shall be borne by the Land Splitter.
  - (3) **Plan Commission Recommendation.** After review of the certified survey map and discussions with the Land Splitter on changes and the type and

extent of public improvements that will be required, if any, the Plan Commission shall recommend to the Town Board disapproval, approval, or conditional approval of the certified survey map within 45 days of the filing date of the proposed final certified survey map.

- (4) **Board Action.** After receipt of the Town Plan Commission's recommendation, the Town Board shall, within 90 days of the date the proposed final certified survey map was filed with the Engineering Department, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the Land Splitter, failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The Plan Commission shall communicate to the Land Splitter the action of the Town Board. If the certified survey map is approved, the Engineering Department shall endorse it for the Town Board. The certified survey map shall be recorded with the Register of Deeds office for Racine County within six (6) months after final Town Board approval and within twenty-four (24) months after the first approval of the map.
- (5) **Public Improvements.** In the event public improvements are required plans, computations and specifications which conform to the provisions of Subsection 14-2-4(r) shall be submitted to the Town Engineer at the time of submission of the proposed certified survey map. Said plans must be approved by the Town Engineer before Town Board approval of the certified survey map. Prior to, or as a condition of, Town Board approval of the certified survey map, the Land Splitter shall enter into a Development Agreement pursuant to applicable provision of Section 14-3-3(g) and deposit required fees, as provided in section 14-1-5(b) of the Town Ordinances (the "Development Agreement"). In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the Land Splitter shall enter into an agreement with the Town concerning future costs and liability prior to, or as a condition of, certified survey map approval.
- (6) **Exception to Requirement of Plan Commission Review of Final Certified Survey Maps.** The Plan Commission, upon the recommendation of the Town Engineer, may permit the Land Splitter to file the final certified survey map for Town Board consideration, without first submitting the final certified survey map to the Plan Commission. In such a case, notice to surrounding property owners of the Town Board's consideration of the final certified survey map must be given in accordance with the procedures set forth in section 14-1-5(f)(2). The Town Board shall, from time to time, establish written parameters for the exercise of this discretion.

(g) **Lots.**

- (1) The size, shape and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated.

The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.

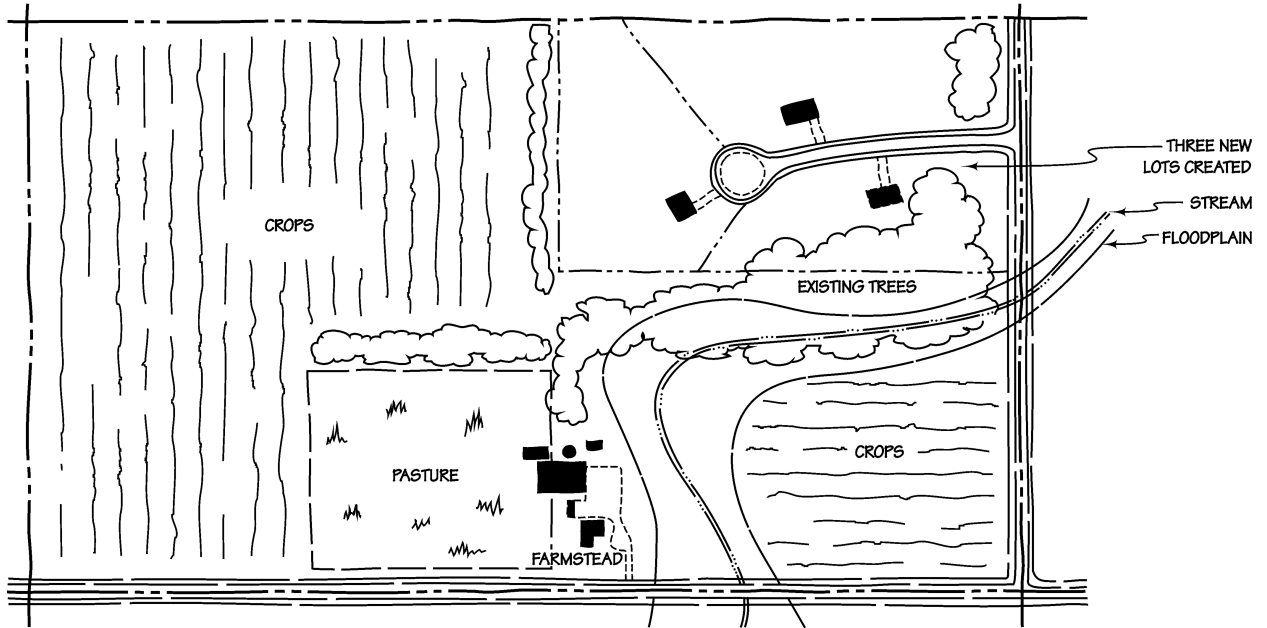
- a) **Shape.** Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
  - b) **Flag Lots.** Flag Lots shall not be approved.
- (2) Every lot shall front or abut on a public street and obtain access by such public street or other officially approved means of access.
  - (3) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the Racine County Zoning Ordinance, the Racine County Subdivision Control Ordinance, as amended from time to time, and the Town's Land Use Plan and any applicable statutes and regulations, provided that:
    - a. Unless a lot is created by lot averaging under Sec. 14-1-5(h), all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres, exclusive of areas dedicated for public rights-of-way, and at least 150' of frontage on a public street and at the setback line. A lot on a cul-de-sac must satisfy the front footage requirements on the right-of-way or at the setback line.
    - b. The ratio of the entire length of the side of a residential lot to the frontage on the public street or at the setback line, whichever is greater, of the lot shall not be greater than 2.5:1.
  - (4) Side lots lines, where practical, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
  - (5) Shoreland lots shall be subject to the setback and vegetative buffer requirements set forth in section 14-3-4(c)(2)d.
  - (6) All lots shall comply with the sewer and water service requirements under subsection 14-3-4(c)(6).
- (h) **Lot Averaging.**
- (1) **Intent.** The intent of this subsection is to employ ecological planning principles in the design and construction in dividing land; to preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the Town's resource inventory maps; to protect environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors; to ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for storm water management, floodwater storage, and ground water recharge; to provide for a diversity of lot sizes, housing choices and building densities; to allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally-sensitive areas or agriculture-productive areas on other portions of the parcel; to preserve scenic views by minimizing



visibility of new development from existing roads; to provide buffering between residential development and non-residential uses;

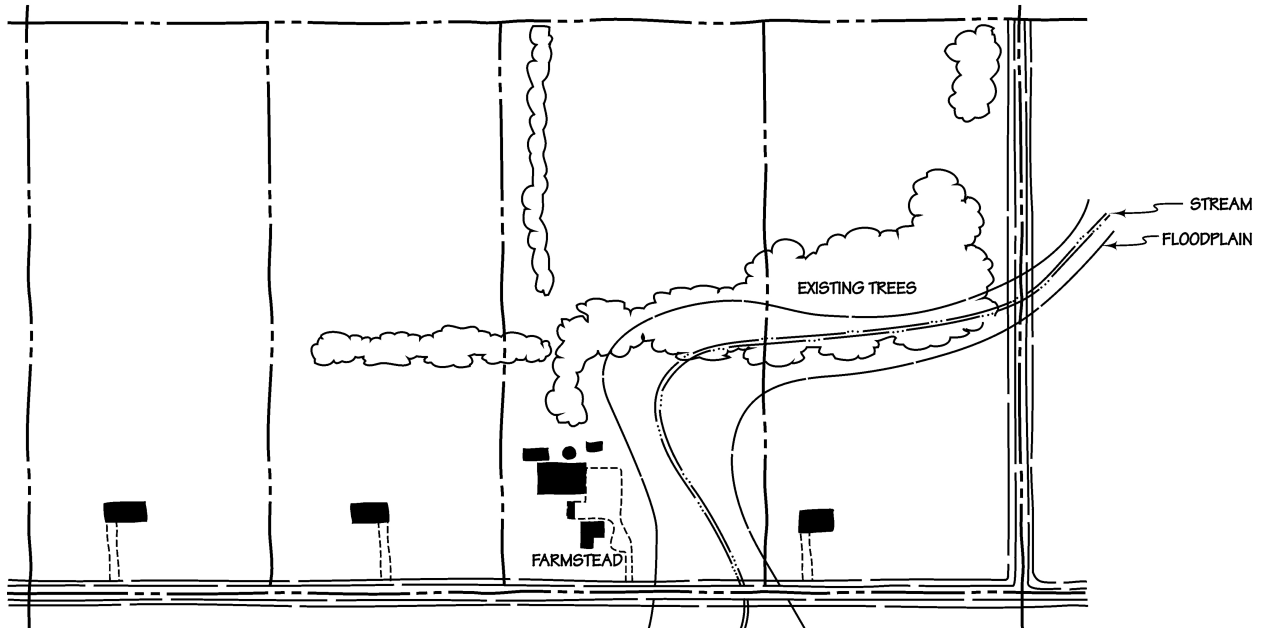
- (2) **Purpose.** The purpose of this subsection is to provide an alternative design technique for Land Splits through the use of Lot Averaging where the purposes set forth in section 14-1-1 are furthered. The use of Lot Averaging shall be permitted at the discretion of the Town Board, subject to the provisions set forth below.
- (3) **Lot Area.** When using Lot Averaging, the area of a lot may be reduced below the five (5) acre minimum, provided that the area by which it is reduced is added to another lot being created by the Land Split. The area of a lot shall not be reduced to less than forty thousand (40,000) square feet, excluding any public rights-of-way.
- (4) **Restrictions.** Each lot or portion of a lot that is part of a lot averaging plan shall be permanently restricted from any further Land Split or Subdivision by restriction, conservation easement, or other agreement in a form acceptable to the Town Board and duly recorded in the Racine County Register of Deeds Office.
- (5) **Examples.** Figures A and B below provide examples of application of lot averaging in a Certified Survey Map:

COMPARISON OF MINOR LAND DIVISIONS USING LOT AVERAGING AND CONVENTIONAL DESIGNS



A. Lot Averaging Design

Note: Farmland remains in private ownership but is deed-restricted to prevent further subdivision.



B. Conventional Design

Source: SEWRPC.

- (i) **Residential Dwelling Siting Standards.**
- (1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
  - (2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Department of Natural Resources.
  - (3) If any common space is planned, Common Open Space shall connect, whenever possible, with existing or potential Common Open Space lands on adjoining parcels and local or regional recreational trails.
  - (4) Residential dwellings should be sited to achieve the following goals, to the extent practicable.
    - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
    - b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
    - c. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
    - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
    - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
  - (5) Landscaping around the proposed residential dwellings may be required to Buffer and reduce off site views of residences.
- (j) **Street Access.** The provisions of Sec. 14-3-4(c)(5)(f) are incorporated herein and made applicable to Land Splits.
- (k) **Modification of Waivers.** The provisions of Sec. 14-3-1(k) are incorporated herein and made applicable to Land Splits.
- (l) **Private Streets.** The provisions of Sec. 14-3-4(c)(5)(e), to the extent deemed applicable by the Village Board, are incorporated herein and made applicable to Land Splits when all of the following apply:
- i. Each parcel to be created by the Land Split has sufficient frontage on a public street and has met all other lot requirements of Title 14;
  - ii. Each parcel to be created by the Land Split is restricted from further land divisions; and
  - iii. It is in the public's interest to limit access points on the public street as determined by the Village Board.

**SEC. 14-1-6 PENALTIES.**

- (a) Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$500 and the costs of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail for not more than 6 months or until full payment is made. Each day a violation exists or continues to exist shall constitute a separate offense. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance
- (b) The Caledonia Town Board, or its agent, shall have the power to institute appropriate action for injunctive relief to prevent a person, firm or corporation from acting in violation of the provisions of this ordinance.

## CHAPTER 2

### Drainage, Development and Construction

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
14-2-1	Intent		
14-2-2	Town Engineering Department		
14-2-3	Comprehensive Drainage Plan		
14-2-4	Minimum Standards for Construction of Roads and Highways		
14-2-5	Private Driveways		
14-2-6	Highway Openings Regulated	2009-01	01/20/09
14-2-7	Disruption of Drainage		

#### **SEC. 14-2-1 INTENT.**

It is the intent and purpose of this chapter to protect the public health, safety and welfare of the Town and its residents by prescribing minimum standards regulating the conduct of persons, firms, corporations, and public utilities in land development and construction within the Town of Caledonia.

#### **SEC. 14-2-2 TOWN ENGINEERING DEPARTMENT.**

- (a) There shall be a Town Engineer appointed by the Town Board who shall have authority to insure compliance with this chapter. The Town Engineer shall serve as an advisor to the Town Board on land development, storm water drainage, road and highway construction and any other matters that the Town Board may from time to time direct.
- (b) The Town Engineer shall administer and oversee all development under this chapter and shall have the authority to establish such procedures in accord with this chapter for the submission and review of development and construction plans as are necessary to effectuate the intent of this chapter.
- (c) The Town Engineer, with the approval of the Town Board, may appoint a qualified person, firm or corporation as Town Road Inspector for a particular project. The Town Road Inspector shall receive such compensation as the Town Board may determine.
- (d) In the absence of a resident Town Engineer, the Town Board may appoint a qualified person, firm or corporation as Acting Engineer for a particular project with the same authority as specified in this chapter for the Town Engineer.

**SEC. 14-2-3 COMPREHENSIVE DRAINAGE PLAN.**

- (a) The Town of Caledonia Comprehensive Drainage Plan, as adopted by the Town Board on July 6, 1977 as amended or recreated from time to time, shall be referred to as a guide in the design and construction of any drainage facility within the Town of Caledonia.
- (b) The Town Engineer shall have responsibility for interpreting and applying the comprehensive drainage plan in reviewing and approving any plan submitted for approval under this chapter. The Town Engineer's interpretation of the Comprehensive Drainage Plan shall be controlling for the purposes of any such review. The Town Engineer may vary the plan, if, in his or her judgment, it is necessary for the proper drainage of the property under review or lands in the vicinity of the property under review.
- (c) The Town Engineer shall have responsibility for interpreting and applying the Comprehensive Drainage Plan in reviewing and approving any building site plan submitted for approval under Title Fifteen of this Code of Ordinances.

**SEC. 14-2-4 MINIMUM STANDARDS FOR CONSTRUCTION OF ROADS AND HIGHWAYS.**

- (a) **Right-of-way.**
  - (1) No road or highway right-of-way shall be accepted by the Town unless such road or highway right-of-way is at least sixty (60) feet in width, depending upon the subdivision plat approved by the Town, and is built in accordance with the specifications contained in this section. A narrower road or highway right-of-way may be approved for good cause, on such terms and conditions, as the Town Board deems fit, on a majority vote of the Town Board, and with the approval of the Wisconsin Department of Transportation where the width of the right-of-way falls below the minimum requirements set forth in Section 86.26, Wis. Stats or Chapter 236 of the Wisconsin Statutes, as applicable. If deemed necessary by the Town Board, a wider right-of-way may be required.
  - (2) All dead end roads shall be provided with a cul-de-sac with a minimum right-of-way radius of eighty (80) feet.
  - (3) Where roads may be extended in the future, the Town Board may authorize the construction of a "T" at the end of a road, provided that the right-of-way for the cross members of the "T" shall not be less than one hundred thirty two (132) feet in length by thirty three (33) feet in width.
- (b) **Subgrade.**
  - (1) All work under this subsection shall be carried out per the requirements of Section 205, Section 207, and Section 211 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
  - (2) All black dirt and other topsoil shall be removed from the right-of-way and no such black dirt or topsoil shall be used in the roadbed within nineteen (19) feet of the centerline of the right-of-way.
  - (3) The finish subgrade shall be a total of six feet wider than the finished road surface width. The finish subgrade crown shall be 0.30 feet higher than the baseline of the

subgrade at the center of the roadbed. The finish subgrade shall not be covered until it is inspected and approved by the Town Engineer.

- (4) Before the granular base material is placed, the subgrade shall be compacted to such a degree as to pass the compaction test outlined in paragraph 5 of this subsection. If necessary, the subgrade may be stabilized by the construction of a coarse stone or gravel-working platform to achieve this purpose.
- (5) The compaction test shall be carried out by the Town Engineer. One of the Town's tandem axle dump trucks shall be slowly driven over the subgrade.
  - a. The truck shall have a gross weight of no less than 56,000 pounds and no more than 60,000 pounds.
  - b. The truck's tires shall exert a pressure of no less than 45 pounds per square inch.
  - c. The subgrade and granular base course shall be compacted to such a degree that it will not excessively rut, deflect or creep beneath the tires of the truck
  - d. A depth of greater than one and one half (1 1/2) inches shall be used as a guideline in determining if rutting or deflection is excessive, provided, however, the Town Engineer's judgment shall govern in any event in determining whether it has passed or failed the compaction test.

(c) **Granular Base Course**

- (1) All work under this subsection shall be carried out per the requirements of Section 304 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- (2) Gradation Requirements:
  - a. If the aggregates shall consist of hard, durable particles of crushed stone or crushed gravel and shall conform to the following gradation requirements:

Sieve Size	Percentage by Weight Passing					
	Gradation No. 1		Gradation No. 2		Gradation No. 3	
	Crushed Gravel	Crushed Stone	Crushed Gravel	Crushed Stone	Crushed Gravel	Crushed Stone
1 1/2 inch	100	100				
1 inch	75-100		100	100	100	100
3/4 inch					95-100	95-100
3/8 inch	40-75	30-65	50-85	40-75	50-90	50-90
No. 4	30-60	25-55	35-65	25-60	35-70	35-70
No. 10	20-45	15-40	25-50	15-45	20-55	15-55
No. 40	10-30		10-30		10-35	
No. 200	3-10	2-12	3-10	3-12	8-15	5-15

- b. Aggregates for the top layer of base course shall be Gradation No. 2 and either Gradation No. 1 or Gradation No. 2 may be used in the lower layers.
- c. Aggregates used in the construction of the top 3 inches of unpaved or unstabilized shoulders abutting live traffic lanes shall conform to Gradation

No. 3 and other shoulder aggregate shall conform either to Gradation No. 2 or No. 2.

(3) Cross-Section.

- a. The granular base course shall be a minimum of ten (10) inches thick for a distance of sixteen (16) feet either side of the centerline.
- b. The granular base course shall be tapered from a thickness of ten (10) inches at sixteen (16) feet either side of the centerline to a zero thickness at distance of nineteen (19) feet either side of the centerline.
- c. The top of the base course shall have a finish crown of 0.25 feet.
- d. The road cross section shall be determined by the Town Engineer.

(4) Construction Methods and Compaction

- a. The granular base course shall be constructed in two lifts of five (5) inches each.
- b. The granular base course shall be compacted with a minimum of a ten (10) ton rubber tire roller to a degree as to pass the compaction test as outlined in Section 14-2-4(b)(5).
- c. When satisfactory compaction cannot be achieved due to lack of moisture water shall be added by sprinkling with equipment suitable for this purpose.

(d) **Drainage Ditches**

(1) Side Slope

- a. The road ditches shall have a side slope of at least four (4) feet for every foot of depth on the roadside of the ditch.
- b. The ditch side slope shall be at least three (3) feet for every foot of depth on the lot side of the ditch.

(2) Depth

The minimum depth of road ditches below the finished grade of the centerline shall be two point four (2.4) feet deep, except that at the high point of the ditch, the depth may be a minimum of eighteen (18) inches.

(3) Location

Ditches shall be a minimum of thirteen (13) feet from the edge of the roadway surface.

(4) Grade

- a. The minimum grade of ditch inverts in the direction of flow shall be 1.0%. Where the grade of a drainage ditch in a development or along a road is 1.0% or less, the developer shall install a paved invert, trench drain, or similar facility acceptable to the Town Engineer to insure proper drainage.
- b. Whenever the longitudinal centerline of the ditch shall exceed 2% in grade, there shall be a six (6) foot wide sod base every fifty (50) feet on the base of the drain. Whenever the longitudinal centerline of the ditch shall exceed 3% in grade, the ditch must be entirely sodded.

(5) Topsoil and Grading

- a. Topsoil shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life.



- b. The ditch slopes shall be dressed with a minimum of three (3) inches of topsoil and carefully graded to the lines and elevations given on the plans.
- (6) Seeding
- a. The seed bed shall be prepared by raking to remove lumps, stones, rocks and debris
  - b. The seed shall then be sowed during a time approved by the Town Engineer.
  - c. The seed shall be composed of seeds of the purity, germination and proportions, by weight, as given below in the Table of Seed Mixtures:

Species	Seeds		Mixtures	
	Min. % Purity	Min. % Germination	No. 1 %	No. 2 %
Kentucky Bluegrass	85	80	45	20
Creeping Red-Fescue	97	80	35	55
Perennial Ryegrass	95	90	5	10
White Clover	95	90	15	
Empire Birdsfoot Trefoil	95	80		15

Seed Mixture No. 1 is intended for use on projects where average loam, heavy clay or moist soils predominate. Seed Mixture No. 1 shall be sown at a rate of one and one-half (1 ½) pounds per 1000 square feet.

Seed mixture No. 2 is intended for use on projects where light, dry, sandy or gravelly soils predominate. Seed Mixture No. 2 shall be sown at a rate of two (2) pounds per 1000 square feet.

- d. In areas where the soils are potentially highly erosive the Town Board may vary Section 14-2-4(d)(6)(c) and require a specially designed seed mixture and seeding rate as recommended in 630.2.1.5.1.2 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.

- (7) Mulching
- a. All seeded areas must be mulched.
  - b. Mulching-material shall consist of any straw or hay in an air-dry condition or wood excelsior fiber, wood chips or other suitable material of a similar nature which is substantially free of noxious weed seeds and objectionable foreign matter.
  - c. Mulch shall be placed on a given area within three (3) days after the seeding has been completed.
  - d. The mulching material shall be uniformly spread over the seeded areas to a loose depth of no less than one (1) inch.
  - e. Instead of mulch, the contractor may at his option substitute jute netting, excelsior mat or a material of a similar nature.

- f. In ditches which will be especially susceptible to erosion, the Town Engineer may order the use of excelsior-mat or jute netting over sodded or seeded areas.

(8) Sodding

- a. The sod shall consist of a dense, well-rooted growth of permanent and desirable grasses, indigenous to this area, and shall be practically free from weeds or undesirable grasses.
- b. At the time the sod is cut, the grass on the sod shall have a length of approximately two (2) inches.
- c. The areas to be sodded shall be free from stones, roots or other undesirable foreign material.
- d. The sod shall be staked or pegged with pieces of lath or stakes spaced from eighteen (18) inches to thirty-six (36) inches apart along the longitudinal axis of the sod strip.
- e. After staking and clean up, the sod shall be thoroughly moistened by sprinkling or watering, when rainfall is deficient for a period of ten (10) days.

(9) Fertilizer

- a. Fertilizer shall meet the following minimum requirements: Nitrogen, not less than 16%; phosphorus free unless soil test indicates phosphoric acid is necessary and then phosphoric acid, not greater than 3%; potash, not less than 6%.
- b. Fertilizer shall be applied at the rate of seven (7) pounds per 1,000 square feet of area for seeded or sodded areas.
- c. Fertilizer shall be incorporated into the soil by raking or discing.

(10) Hydroseeding

Hydroseeding may be used in lieu of regular seeding and mulching.

(e) **Culverts**

(1) Culvert pipe shall be one of the following materials:

- a. Culvert pipe under any roadway or intersection shall be reinforced concrete culvert pipe (RCCP), AASHTO designation; M170.
- b. Corrugated steel pipe and pipe arch for driveways which shall conform to the requirements of the specification for metallic coated corrugated iron or steel culverts and under drains, AASHTO Designation; M 36.
- c. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M 170.
- d. Corrugated aluminum pipe which shall conform to the requirements of the specification for corrugated aluminum alloy culverts and under-drains, AASHTO Designation; M 196.
- e. Structural plate pipe and pipe arches which shall conform to requirements of the specification for structural plate for pipe, pipe arches, AASHTO Designation; M 167.

(2) End Sections and End Treatment

- a. Galvanized steel end sections shall be used at the ends of all steel and aluminum road culverts. Insulating gaskets shall be used between the steel

end section and aluminum pipe. Reinforced concrete road culverts shall be used at the ends of reinforced concrete road.

- b. In lieu of end sections the Town Engineer may allow for good cause, the ends of steel and aluminum pipe greater than forty-eight (48) inches in width, to be mitered provided it can be verified that such miter cut will not substantially weaken the pipe. The miter cut shall be smooth and free of all sharp and jagged edges.
- c. In the cases of a large pipe or a high susceptibility of erosion to the embankment at the ends of the culverts, the Town Engineer may order the use of rip-rap, headwall or slope paving at the ends of the culvert.

(3) Minimum Length and Minimum Size

- a. Culverts shall be a minimum of forty (40) feet in length. The culvert length shall be increased as is necessary to provide a stable embankment slope of no steeper than two (2) (horizontal) to one (1) (vertical).
- b. Culverts shall have a minimum diameter of twelve (12) inches.

(4) Gage or Class of Pipe

- a. The minimum gage of steel or aluminum pipe or minimum class of reinforced concrete pipe shall be that specified in the Fill Height Tables of Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.

(5) Minimum and Maximum Cover

The minimum and maximum cover for culverts shall be that specified in Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.

(6) Bedding

Culvert pipe shall be bedded per Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual and per Section 520.3.2.1 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.

(7) Backfill

- a. Culvert pipe shall be backfilled per Section 520.3.4.1 and per Section 207.4 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- b. Material used for backfill shall be of a quality acceptable to the Town Engineer and shall be free from frozen lumps, wood or other extraneous or perishable materials.
- c. If acceptable backfill material is not available the Town Engineer may require granular backfill conforming to Section 209 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.

(f) **Storm Sewers**

- (1) Storm sewers shall be constructed per the requirements as set forth in the Standard Specifications for Sewer and Water Construction in Wisconsin, 5<sup>th</sup> Edition, March

1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999).

- (2) Storm sewer pipe shall be one of the following materials:
  - a. Non-reinforced concrete pipe intended for use for storm sewers shall conform to the requirements of the Specification for Concrete Sewer, Storm Drain and Culvert Pipe, AASHTO Designation; M 86, for the class of pipe specified.
  - b. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M 170, for the class of pipe specified.
- (g) **Road Profile**

The minimum grade for the road surface shall be 0.5%. The grade of an intersection shall be no more than 2% for a minimum distance of fifty (50) feet from said intersection. The maximum grade for all other cases shall be 8%.
- (h) **Sight Easements**

As a condition of acceptance of a road the dedicator shall agree that no one shall plant shrubs or trees or install fences of such construction as would obstruct vision in intersections within the imaginary triangle with legs 25 feet long, measured from the point of intersection of the road right-of-way lines and measured along the road right-of-way lines.
- (i) **Sight Distance**

Minimum stopping sight distance shall be 150 feet.
- (j) **Horizontal Curvature**

The minimum radius of curvature shall be 150 feet.
- (k) **Cul-de-Sac**
  - (1) The roadbed in a cul-de-sac shall be at least sixty-three (63) feet in radius with an unpaved portion in the center having a radius of thirty-four (34) feet or less. Those owners of land abutting a cul-de-sac shall be responsible for maintaining the center island, unless such responsibility has been delegated to a homeowner's or condominium association.
  - (2) The paved portion of a cul-de-sac shall have an outside radius of fifty-eight (58) feet, whether curb and gutter or open ditch
  - (3) Cul-de-sacs in residential developments shall have a maximum length of 800 feet or shall be designed to accommodate a maximum of sixty-four (64) residential units, whichever is more restrictive.
- (l) **Temporary Tee**
  - (1) In a tee, the roadbed shall be twenty-six (26) feet in width and at least one hundred (100) feet in length.
  - (2) The wings of the tee shall be surfaced with the ten (10) inch granular course and not paved with bituminous concrete.
- (m) **Bituminous Concrete Paving**
  - (1) All bituminous concrete paving work on new roads shall be done under contract by the Town with the contractor who is awarded the Town's paving contract for the year during which the paving work is done.

(2) Primer Coat

- a. The day before the bituminous concrete base course is to be placed upon a previously untreated foundation layer, such as the granular base course, a primer coat shall be applied.
- b. The material used as a prime coat shall be grade MC-30 liquid asphalt or equal material.
- c. The primer coat shall be applied at a rate of no less than 0.25 gallon per square yard.
- d. The primer application shall be equal to the width of the roadway.

(3) Tack Coat

- a. Before the installation of a bituminous surface course upon a previously prepared or existing surface, such as bituminous concrete or portland cement concrete, a tack coat shall be applied.
- b. The material used as a tack coat shall be grade MS-2 emulsified asphalt.
- c. The tack coat shall be applied at a rate of no less than 0.10 gallons per square yard.

(4) Bituminous Concrete

- a. The bituminous concrete binder course and surface course pavement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition, Section 407.
  1. All bottom course or binder aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 1. All surface or wearing courses aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 3.
  2. The aggregates for the binder and surface course shall have at least 95% of the aggregate particles which are retained on the No. 4 sieve produced by the fracture of larger particles.
  3. The asphalt cement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition and shall be in the 120-150 penetration range.
- b. The Town Board may, at its option, allow the use of up to 35% recycled asphalt pavement in the binder course and up to 25% recycled asphalt pavement in the surface course. If recycled asphalt pavement is used all mixes produced shall conform to the same current acceptable specifications required of all bituminous concrete mixtures.
- c. The specifications for transportation and placing the bituminous pavements shall conform to Section 405, State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition. The contractor, at its expense, shall submit samples of bituminous concrete pavement, which it has placed, to a certified materials testing laboratory approved by the Town Board for analysis if desired by the

Town Engineer. All costs incurred in sampling, shipping, and testing pavement samples shall be borne by the contractor.

- d. After the primer coat has been applied and allowed to set to the satisfaction of the Town Engineer, new roads shall be surfaced with a four and one-half (4 ½) inch thick pad of bituminous concrete binder course. All road widths and travel lanes shall comply with the Street Standards under subsection 14-14-3-4(c)(5).
- e. When development along the road or in the subdivision is 95% completed, or at such other time as the Town Engineer may in his or her discretion determines to be appropriate, a tack coat and a one and one half (1 1/2) inch bituminous concrete surface course shall be applied.

(n) **Final Shouldering**

- (1) After the bituminous concrete binder course is installed, Town personnel and equipment will perform the final shouldering work at the cost of the Subdivider or developer.
- (2) The aggregate used for final shouldering shall conform to Subsection 14-2-4(c)(2)(c).
- (3) Unless an alternate final shouldering plan is approved by the Town Board, the crushed stone or gravel shoulder shall have a minimum width of five (5) feet.

(o) **Drainage**

- (1) All roads will provide drainage for land to conform with the dictates of the Town of Caledonia Comprehensive Drainage Plan except that the Town Board may require more stringent measures, if, in its opinion, the situation so requires. Any natural drainage way or existing drainage tile disturbed during the construction of a road shall be restored or shall be rerouted and redeveloped in a manner acceptable to the Town Engineer.

(p) **Backfill and Compaction of Utility Trenches**

All sanitary sewer, storm sewer and water main trenches, both mainline and laterals, that are excavated within the street right-of-way shall be backfilled and compacted as follows:

- (1) Except as provided in paragraph 5 of this subsection, excavated material conforming to Section 6.43.5 of the Standard Specifications for Sewer and Water Construction in Wisconsin, latest edition and any Addendums thereto, may be used, provided that the material is not frozen. Material shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor.
- (2) Excavated material that is frozen or does not conform to the "Standard Specifications" shall be disposed of and a granular backfill material conforming to Section 6.43.4 of the "Standard Specifications" shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor.
- (3) If a contractor wishes to vary the requirements of this section so as to employ an equal or more effective method of compaction, he shall first obtain the written permission of the Town Engineer. If such permission is granted and it later appears that the alternate method being employed is not, in the judgment of the Town Engineer, equally or more effective than the provisions of this section, the contractor shall revert to the means specified in this section.

- (4) In no case will flooding of the trenches be allowed as a compaction method.
  - (5) In all cases, granular backfill material, conforming to Section 6.43.4 of the "Standard Specifications" shall be placed, in sanitary sewer trenches for a distance of twenty-five (25) feet either side of all sanitary sewer manholes. No excavated material will be allowed in this area.
- (q) **Developer's Liability, Costs and Bonding**
- (1) The developer requesting acceptance of the road or highway shall be liable for all costs relating to construction and approval of the road or highway, including but not limited to, materials, labor, engineering inspections, permit fees plan review, adjustment or relocation of utilities and drainageways, insurance, legal review and sureties.
  - (2) Bituminous Concrete Binder Course Liability
    - a. The developer shall be liable for the cost of the binder course pavement in an amount necessary to achieve an average of four and one half (4 1/2) inches of binder course for the width of the roadway and a diameter of one hundred and sixteen (116) feet in the cul-de-sacs, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.
    - b. The per ton price of the binder course material shall be the cost at the time of application.
    - c. Concurrent with the execution of the contract with the Town, the developer shall pay to the Town the estimated cost of installing the bituminous concrete binder course, along with a 10% contingency. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the Town. Interest that accumulates on any cash deposit remains the property of the Town.
  - (3) Final Shoulder Liability
    - a. The developer shall be liable for the cost of Town equipment, labor and material which is necessary for the final shouldering subsequent to the installation of the bituminous concrete binder course.
    - b. The developer shall be liable for the necessary final shouldering subsequent to the installation of the bituminous concrete surface course.
    - c. Concurrent with the execution of the agreement, as provided for within Subsection 14-2-4(t) with the Town, the developer shall pay to the Town the estimated cost of installing the final shoulder for the binder course, along with an additional 10% contingency. Interest that accumulates on any cash deposit remains the property of the Town. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the Town.
  - (4) Bituminous Concrete Surface Course Cost
    - a. The developer's liability for the cost of the surface course pavement shall be that cost which is necessary to install one and one half (1 1/2) inch thickness of surface course pavement for the width of the roadway and a diameter of one hundred and sixteen (116) feet in the cul-de-sacs, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.

- b. The surface course cost shall be calculated by the Town Engineer using the following formula:
  1. The area in square feet of pavement shall be calculated by the use of analytical methods from approved road plans.
  2. The area of pavement shall be divided by the figure one hundred and four (104) to obtain the number of tons necessary.
  3. The tonnage shall be multiplied by the per ton paving contract price of surface course material which is in effect at the time of the execution of the road construction agreement, as required per subsection 14-2-4(t) herein. The answer shall be the amount due to the Town.
- c. The developer shall be liable for the cost of the tack coat which is used immediately prior to the surface course paving.
- d. Concurrent with the execution of the road construction agreement with the Town, the developer shall pay in cash to the Town the cost of the surface course installation as calculated above, along with a 10% contingency. Interest that accumulates on any cash deposit remains the property of the Town.

(6) Performance Bond

- a. The Town Board, as a condition precedent to the execution of the road construction agreement, as required pursuant to subsection 14-2-4(t) herein, shall require the developer to file cash, letter of credit or a performance bond with the Town guaranteeing compliance with the Town Ordinances and the provisions of such road construction agreement. Such security shall be in such amount as to cover 100% of the estimated costs of storm water drainage, lot grading, and road construction work, exclusive of the road construction costs for paving and final shouldering. Such estimated costs shall be provided by the developer or his engineer and shall be subject to the approval of the Town Board.
- b. From time to time, during the course of the above-described construction work, the Town may release at the request of the developer pro rata portions of the cash bond, surety bond or letter of credit. The amount of the principal sum released shall roughly equate to the percentage completion of the storm water drainage, lot grading, and road construction work, as determined by the Town Engineer, less a 10% retainage. The amount retained by the Town shall remain with the Town until all obligations under the road construction agreement have been fully performed, after which any portion not used by the Town as therein provided shall be paid to the developer.

(7) Costs of Review for Non Subdivision Roads

The petitioner who requests that the Town accept a road outside a subdivision shall pay to the Town all engineering, planning, legal and administrative expenses incurred by the Town in reviewing, approving, preparing, or drafting any road plans or contracts required by virtue of such plans or by the provisions of this section. Such expenses shall include the cost of engineers, attorneys, inspectors, subcontractors and other employees computed on a prorata hourly basis. This obligation shall not be affected by denial or withdrawal of the petition for



acceptance. At the time of submission of preliminary plans, the petitioner shall deposit with the Town Treasurer the sum of One Thousand (\$1,000.00) Dollars, either in the form of cash or an irrevocable letter of credit acceptable to the Town Board. The Town shall apply such funds toward payment of the above costs. Upon final approval and acceptance of the road, the Town shall furnish the petitioner with a statement of all such costs incurred by it with respect to such road. Any excess funds or credit shall be remitted to petitioner or shall be released by the Town, and any costs in excess of such deposit shall be paid by the petitioner.

(8) Costs of Review for Subdivision Roads

The Subdivider shall pay all reasonable costs as provided in Section 14-3-3(c) of this ordinance.

(r) **Engineering Plans, Computations and Specifications**

(1) Final plans and specifications of roads and grades shall be approved by the Town Engineer before the execution of the road construction agreement or Development Agreement by the Town Board. Approval of the plans and specifications shall not bind the Town to acceptance of the completed construction nor relieve the person constructing the same from complying with the provisions of this section or any other ordinances, or of providing for conditions not represented on the plans in accord with the dictates of good engineering practices. The plans shall include:

- a. A plan view or views of the proposed road drawn to scale on a standard sheet thirty-six (36) inches by twenty-four (24) inches and showing thereon:
  1. A profile of the road centerline drawn on the same sheet or sheets at the same horizontal scale and arranged so that any station on the profile is represented, as nearly as practicable, directly above or below the same station on the plan view. The vertical scale shall be ten (10) times that of the horizontal scale. Such profile shall show the existing and proposed profile.
  2. The horizontal alignment of the road centerline showing station marks at each one-hundred (100) foot station.
  3. Cross sections at minimum stationing of one hundred (100) feet.
  4. Centerline curve data including radius of curvature, central angles of curves, tangent distances, stationing of points of intersection of tangents, points of curvature, points of reversed or compound curvature and points of tangency.
  5. Stationing of centerline intersections and beginning and end of construction.
  6. The horizontal alignment of the edges of the proposed pavement including radii at intersections and the junction with existing construction.
  7. Location, size, length, material and direction of flow of culverts, subdrains and intercepting ditches and direction of flow of ditches, points where direction of flow changes, points of disposal of drainage and sufficient information on existing drainage facilities used for disposal to accurately depict the adequacy of the drainage system.

8. Proposed ditch profile, high point of ditch, ditches requiring sodding, and ditches requiring sod checks.
  9. Elevations of road at intersections.
  10. Typical cross section of road showing right-of-way width, gravel road bed width, asphalt width, crown of road, and road ditches.
  11. Location and dimensions of street, right-of-way, and other easements provided for drainage and construction.
  12. Such other dimensions, notes or pictorial data as may be necessary to present a clear representation of the proposed construction.
  13. Location and elevation of benchmarks used as control.
  14. The name, address and seal of the engineers responsible for the design and the supervision of construction. Such engineers must be registered professional civil engineers.
  15. The size of driveway culvert for each lot. The relevant drainage area shall be that area lying upstream from each downstream lot line.
- b. A grading and drainage plan showing the following information:
1. Existing and proposed contour lines throughout the development. (If Racine County Topographic Maps are used to determine the location of existing contour lines, such contour lines shall be spot checked in the field by the developer's engineer.)
  2. Proposed lot corner elevations.
  3. Proposed drainage easement lines, lot lines and right-of-way lines.
  4. Flow arrows for the drainage paths of all ditches and swales.
  5. Proposed yard elevation shown within the block defined by the normal set back lines. The yard elevation shall be that elevation around the immediate perimeter of a future structure. The final yard elevation shall be set at the discretion of the Town Engineer.
  6. Cross sections of major off road drainage ditches at no greater than one hundred (100) feet intervals if such ditches have a 100 year design flow of at least thirty (30) cubic feet per second.
  7. Proposed top of pavement elevations along the centerline of road at even stations.
  8. Proposed flow line elevations of major off road drainage ditches at even stations.
- c. Written road construction and site grading specifications which reflect the requirements of Chapter 14-2.
- d. If a storm water detention or retention basin is deemed necessary by the Town Engineer and, if applicable, the appropriate Drainage Commission storm water detention and retention plans, which shall include:
1. A plan view reflecting such information as is required on the grading plan.
  2. Subsurface drain tile if deemed necessary by the Town Engineer.
  3. Pertinent cross-sections which are necessary to describe the lines and grades of the holding pond profile and boundaries.
- (2) Storm water drainage computations shall be submitted to the Town Engineer for his approval.

- a. The computations shall be accompanied by a drainage area plan showing all major drainage basin and sub-basins within the development and contributing areas outside of the development.
- b. Rate of run off computations shall be made for the use of sizing road culverts, drainage structures, holding ponds and ditches. The rational method shall be used in all run off computations. In cases where a drainage area exceeds fifty (50) acres, a run off computation using the Soil Conservation Service method will also be required. Use of other methods of runoff computations will require written permission of the Town Engineer.
- c. Road culverts shall be designed using the standard procedures and graphs shown in the Hydraulic Engineering Circulars published by the Federal Highway Administration.
- d. Detention and retention basins shall be designed using the flood routing procedure conforming to the storage equation of  $\bar{I}t - \Delta S = \bar{O}t$  ( $\bar{I}$  = inflow in cfs; S = storage in ft.<sup>3</sup> ; O = outflow in cfs; t = time).
- e. Drainage ditches and storm sewers shall be designed using the Manning equation and the methods outlined in the State of Wisconsin Department of Transportation Facilities Development Manual.

(s) **Alternate Urban Road Cross Section**

Should the standard rural road cross section, as detailed in the preceding sections of Chapter 14-2 contained herein, be impossible to construct pursuant to the ordinances set forth herein or should good cause be shown, the Town Board may allow the developer to utilize an urban road cross section. The alternate urban cross section shall be determined by the Town Board at the time of the preliminary plat approval.

(t) **General Requirements**

- (1) The owner shall agree in writing to be liable for the maintenance and repair of such road for a minimum period of two (2) years after acceptance of the base course of asphalt or until the Subdivision is at least 95% developed, whichever period of time is greater. The Town Board may require a longer guaranty period based upon the site conditions, time when construction is to be carried on, and any other factors affecting the road or its stability.
- (2) No owner of any land abutting upon any road accepted by the Town Board under the terms of this Code of Ordinances shall offer for sale any of such lands so abutting unless such proposed road has been constructed according to the terms and provisions hereof.
- (3) No non-subdivision road shall be accepted by the Town of Caledonia unless the petitioner, at his own expense, furnishes the Town Board with a plat of such roadway and drainage easements, together with the deed granting title to such land to the Town or a document dedicating said land for highway purposes or granting an easement therefore to the Town. Such deed or document shall contain an accurate legal description of the realty affected, shall be executed in recordable form, and shall be certified by a registered land surveyor.
- (4) All such work shall be subject to the inspection of the Town Engineer, Town Road Inspectors and the Town Board or its designated agents, officers, or employees.

- (5) The provisions of this Chapter are intended as minimum standards. The Town Board may, if in its judgment the circumstances warrant set additional requirements or restrictions for construction and acceptance of any road.
- (6) No road or highway construction shall take place between November 15 and April 15 without written approval of the Town Board.
- (7) The naming of streets and Town roads and highways within the Town of Caledonia shall be subject to the discretion of the Town Board and the Racine County Planning and Development Division.

(u) **Road Construction Agreement**

Prior to the acceptance by the Town Board of engineering plans and specifications as provided for in subsection 14-2-4(r) the developer shall enter into a Road Construction Agreement with the Town.

- (1) Such Road Construction Agreement shall guarantee that the roads, highways and appurtenances thereto shall be constructed at the expense of sub-divider in accordance with the provisions of Title 14 Section 2 of the Code of Ordinances of the Town of Caledonia which are in effect at the time of such construction.
- (2) Sewer and/or water service laterals to each lot will be installed by the developer prior to submission of the roads to the Town for acceptance, provided sewer and/or water mains are available for connection in said roads.
- (3) In the case of subdivision roads, such road construction agreement as required herein may be substituted with the subdivision control agreement as provided for in Subsection 14-2-4(e).

(v) **References**

The references contained within this subsection shall be consulted for detailed information not given in Section 14-2-4. In the event that one of the following references is updated, revised or replaced the developer shall comply with the latest edition.

<u>Subsection</u>	<u>Reference</u>
2, 3, 4, 5, 13, 14	<u>State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction</u> , 1996 Edition, as amended by Supplemental Specifications, 2000 Edition
4, 5, 18	State of Wisconsin Department of Transportation Facilities Development Manual
6, 16	<u>Standard Specifications for Sewer and Water Construction in Wisconsin</u> , 5 <sup>th</sup> Edition, March 1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999)
18	Urban Hydrology for Small Watersheds Technical Release No. 55 Soil Conservation Service, 1975 Edition

**SEC. 14-2-5 PRIVATE DRIVEWAYS.**

(a) **Permit Required: Conditions Relating Thereto**

No person shall make an installation or relocation of a private driveway extending into a Town public right-of-way without first obtaining a highway access permit therefor from the Town Clerk. The Town Clerk shall issue such permit upon recommendation by the Town Engineer and, if applicable, payment to the Town Treasurer of the required fee.

(b) **Building Permit: Condition Precedent to Issuance**

No building permit shall be issued by the Building Inspector of the Town of Caledonia unless a driveway has been constructed from the public right-of-way to and on the site upon which construction is to take place, unless temporarily waived in writing by the Town Engineer, due to seasonal weather conditions.

(c) **Highway Access Permit: Terms and Conditions**

(1) Driveways which access Town roads which are constructed with road ditches.

- a. A culvert shall be installed under each driveway unless the Town Board or the Town Engineer shall have determined that no culvert is required to ensure drainage at that location. The culvert shall be of corrugated metal and shall be installed parallel to the highway and at a location designated by the Town Engineer. Such culvert shall have standard metal endwalls properly secured to the ends of the culvert. The size and elevation of the culvert shall be such as are established by the Town Engineer, but not less than twelve (12) inches in diameter. The culvert shall conform to Section 521 and shall be installed pursuant to Section 520 of the State of Wisconsin D.O.T. Standard Specifications for Road and Bridge Construction. There shall be a minimum of six (6) inches of gravel or crushed stone above the culvert as a traffic bearing surface. Prior to and subsequent to the installation of such culvert, the site, culvert and elevation of the same shall be inspected by duly authorized personnel of the Town of Caledonia. Installation shall be at the cost of the applicant.
- b. When installing a driveway, the property owner or permittee shall not pave any portion of the right-of-way with portland concrete cement, except if the driveway abuts a road right-of-way that has both curb and gutter.
- c. No one shall construct a solid wall abutment at the ends of the culvert underlying the driveway.
- d. Any drainage ditch and public right-of-way affected by the construction of a driveway entrance shall be reconstructed to a shape, grade and contour necessary for proper drainage, as approved by the Town Engineer, at the expense of the property owner or permittee.

(2) Driveways which access Town roads which are constructed with curb and gutter.

- a. No culvert shall be required unless it is determined by the Town Board or Town Engineer that a culvert is necessary to ensure proper drainage.
- b. In the case of vertical face curb and gutter where the curb has not been constructed to allow driveway access, the applicant shall completely remove the existing curb and gutter and reconstruct such curb and gutter to allow for driveway access. Such removal and reconstruction shall extend for a minimum width of 30 inches and for a minimum length of 4.25 feet beyond the edge of

the proposed driveway. Curb and gutter removal and construction shall be completed pursuant to Sections 204 and 601, of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition. All newly constructed curb and gutter sections shall be constructed to such dimensions as determined by the Town Engineer.

- c. The applicant shall also be responsible for constructing concrete driveway approach slabs if such slabs are required by the Town Board. Such slabs shall be constructed to such dimensions as determined by the Town Engineer.

(d) **Culvert Maintenance**

The Owner of the contiguous property serviced by the driveway shall be responsible for the maintenance, repairs and/or replacement of any driveway culvert in the Town right-of-way, including the removal of yard debris and natural silt accumulation, so that there is no obstruction to the flow of water. In the event an owner shall fail to do so, the Town of Caledonia shall give written notice to the owner specifying the maintenance, repair or replacement required to be done. If after ten (10) days the owner fails to make such corrections, the Town of Caledonia may cause such work to be done, and shall charge the owner with such costs, and if unpaid, charged against the property as a special charge under Section 66.0627, Wisconsin Statutes. If the damage to a culvert necessitating the repairs under this section can be shown to have been caused by Town machinery or personnel, the cost shall be borne by the Town.

(e) **Highway Access Permit Fee**

To cover the costs of administration, checking of grades, inspection and policing of this section, the applicant for a highway access permit hereunder shall pay to the Town Treasurer a permit fee of an amount as established by and as may be modified from time to time by resolution of the Town Board of the Town of Caledonia. In the case of Town roads constructed with curb and gutter, no permit fee shall be charged.

(f) **Asphalt Permit**

No person shall pave any portion of any driveway located on Town road right-of-way with bituminous concrete without first obtaining an "Asphalt Permit" from the Town Engineer. No person hereunder shall be issued a permit unless the applicant therefore pays to the Town Treasurer a permit fee of an amount as established by and as may be modified from time to time by resolution of the Town Board of the Town of Caledonia.

(g) **Driveway Maintenance Costs**

The cost of any and all repairs to the driveways extending into Town public rights-of-way, including but not limited to the moving of existing culverts and the maintaining of pavement and stone surfaces shall be borne by the property owner or permittee, unless such repairs were necessitated by a re-ditching and/or culvert resetting project of the Town or by a road resurfacing project of the Town.

(h) **Penalty**

Any person found guilty of violating any of the provisions of this Section, after having been directed to comply by the Town Board or its designee, shall upon conviction thereof forfeit not less than \$50.00 and the costs of prosecution and in default of payment thereof, shall be imprisoned in the County Jail for a period not to exceed thirty (30) days.

**SEC. 14-2-6 EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY AND VILLAGE  
OWNED PROPERTY REGULATED**

(a) **Purpose and Findings.**

- (1) In the exercise of governmental functions, the Village has priority over all other uses of the public Rights-of-Way. The Village desires to anticipate and minimize the number of obstructions and Excavations taking place therein and to regulate the placement of Facilities in the Rights-of-Way to ensure that the Rights-of-Way remain available for public services and safe for public use. The taxpayers of the Village bear the financial burden for the upkeep of the Rights-of-Way and a primary cause for the early and excessive deterioration of its Rights-of-Way is the frequent Excavation by Persons and Public Utilities who locate Facilities therein.
- (2) The Village finds increased use of the public Rights-of-Way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future.
- (3) The Village finds that occupancy and Excavation of its property and Rights-of-Way causes costs to be borne by the Village and its taxpayers including, but not limited to:
  - a. Administrative costs associated with public Right-of-Way projects such as registration, permitting, inspection and supervision, supplies and materials.
  - b. Management costs associated with ongoing management activities necessitated by public users.
  - c. Repair or Restoration costs to the public property and/or Right-of-Way associated with the actual Excavation.
  - d. Degradation costs defined as depreciation caused to the public property and/or Rights-of-Way in terms of decreased useful life, directly and/or indirectly arising or resulting from such Excavations and related activities thereon.
- (4) The Village enacts this ordinance to regulate the temporary Excavation, obstruction and/or occupancy of public property and/or the public Rights-of-Way. This ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within its public property and/or Rights-of-Way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.
- (5) This ordinance provides the Village with a legal, uniform and reasonable framework within which to regulate, manage, inspect, properly maintain, engineer and regulate Excavations, Repairs, Restorations and related effects and aftereffects of and into the Village's public properties and Rights-of-Way, and to provide for recovery of the reasonable associated costs, fees and expenses incurred by the Village in doing so.
- (6) This ordinance protects the health, safety and welfare of the residents of the Village as they use public properties and the Rights-of-Way of the Village,

as well as to ensure the structural integrity of public property and the public Rights-of-Way.

(b) **Definitions.**

The following definitions shall apply in this Section. Defined terms remain defined terms whether or not capitalized. Words used in the present tense shall include the past and future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word “shall” is mandatory and the word “may” is permissive.

**Applicant.** Any Person or Public Utility requesting permission to Excavate, cut into, bore into, obstruct and/or occupy public property and/or a public Right-of-Way.

**Village.** The Village of Caledonia, a Wisconsin municipal corporation located in the County of Racine, Wisconsin.

**Degradation.** The decrease in the useful life of the public property and/or improved or paved portion of a Right-of-Way, excluding the sidewalk right-of-way, caused by an Excavation of the public property or Right-of-Way, resulting in the need to reconstruct such property and/or Right-of-Way earlier than would be required if the Excavation did not occur.

**Department.** The Engineering Department of the Village.

**Emergency.** A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

**Village Engineer.** The Village Engineer and/or his/her designee(s).

**Excavate and/or Excavation.** To dig, cut, bore into, remove, physically disturb, penetrate and/or in any manner affect the existing condition of any Village property, Right-of-Way or other land included in this ordinance.

**Facilities.** All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

**In.** When used in conjunction with "public property" and/or "Right-of-Way", shall mean upon, over, above, within, on or under such public property and/or Right-of- Way.

**Local Representative.** A local person or persons, or designee of such persons or persons, authorized by an Applicant to accept service and to make decisions for that Applicant regarding all matters within the scope of this Section.



**Obstruct.** To place any object in a Right-of-Way so as to hinder free and open passage over that or any part of the Right-of-Way.

**Permittee.** Any person or Public Utility to whom a permit to occupy, Excavate or obstruct public property and/or Right(s)-of-Way has been granted by the Village under this Section of the ordinances

**Person.** A corporation, company, association, firm, partnership, limited liability company, limited liability partnership, joint venture, association, organization and individuals and their lessors, transferees, receivers, heirs, personal representatives, agents and all others acting on their behalf.

**Property.** The surface and space above and below an improved or unimproved part or whole of any and all Village owned or leased real property including, but not limited to, parks, vacant lots, open spaces, developed lands, green belts, parking lots, streets, sidewalks, terraces, rights-of-way, curbs, gutters, alleys, bicycle ways, bike trails, paths, beaches, river banks, easements, drainage ways, and other lands.

**Public Utility.** The meaning provided in Wis. Stats. 196.01(5), as from time to time amended or renumbered.

**Repair.** To perform construction work necessary to make the public property and/or Right-of-Way useable for appropriate and safe use and, if a Right-of-Way, in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Engineer; and/or, as applicable, to restore equipment to an operable and appropriate condition.

**Restore or Restoration.** That process by which an excavated public property and/or Right-of-Way and surrounding area, including pavement and foundation, is reconstructed in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Engineer.

**Right-of-Way.** The surface and space above and below an improved or unimproved public roadway, highway, street, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated Rights-of-Way for travel purposes.

**Site.** The specific geographic location for a proposed Excavation accurately diagrammed and exactly described with particularity by the applicant in an application.

(c) **Prohibition -- Excavation permit required.**

- (1) No cut, Excavation, or service connection shall be made by any Person or Public Utility in any Village property or Right-of-Way unless a permit under this Section is applied for, the fee paid for, the permit issued by the Village Engineer, obtained and held under this ordinance and then only in strict accord with all provisions and requirements of this ordinance.
- (2) No Person or Public Utility shall undertake to perform the work of making any connection with, installing or Repair of any Facilities, gas pipe, water pipe, sewer, communication, cable, or electric line or facility laid or constructed in any street or public ground, or to Repair or remove any such item without having obtained a permit under this Section authorizing him to do such work. No annual permit fee is required but individual permits and permit fees for each Excavation are required.
- (3) Every cut, Excavation and service connection in any Village property that is not a Right-of-Way shall also require, in addition to the permit, payment of fees and fulfillment of other requirements set forth in this ordinance, and separate permission, lease(s) and/or easement(s) from the Village Board, as applicable. Such additional permission is discretionary with the Village Board, is not a matter of right regardless of whether a permit has been applied for and/or issued under this ordinance, and may be denied or withheld without cause. Compliance with this ordinance does not take the place of such additional required permission.

(d) **Application for permit.**

Written application for an Excavation permit shall be made to the Village Engineer prior to any Excavation. Permit applications shall contain and will be considered complete only upon compliance with each of the following requirements:

- (1) **Application Form.** An accurate and complete written Excavation Permit Application Form shall be submitted to the Village Engineer. The application shall be signed and dated by a duly authorized representative of the Applicant. The application form shall be in such form, content and requirements as the Village Engineer may determine and/or direct from time-to-time. The application form shall contain, at a minimum, the following information:
  - (a) Each Applicant's name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
  - (b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a Local Representative. The Local Representative or designee shall be available at all times. Current information regarding how to contact the Local Representative in an emergency shall be provided at the time of application.

- (c) A detailed description of the scope and plan of the Excavation work and Repair/Restoration proposed, including a description of the property and name of the Right-of-Way if applicable, the approximate location of the Excavation(s), the purpose for the Excavation, and the method by which the Excavation is to made.
  - (d) Indemnification language protecting and holding harmless the Village and each and every of the Village's elected and appointed officials, officers, employees, agents, contractors and representatives from and against any and all injury, payments, penalties and damages arising from any and all intentional and negligent activities of the Applicant and the Applicant's appointed officials, officers, employees, agents, contractors and representatives.
  - (e) The applications shall be signed by the Applicant's authorized representative or agent. If the work is not to be performed by the Applicant directly, the person engaged to do the work shall co-sign the application and the permit shall be issued in the name of the person performing the work along with the Applicant.
- (2) **Form and Drawings.** Submission of the completed permit application form as established by the Village Engineer, including all required attachments, drawings showing the location and area of the proposed Facilities, and the size of the cut, Excavation or service connection. The proposed Excavation must accommodate all existing underground Facilities within the proposed route.
- (3) **Insurance Certificate.** The applicant shall file Certificates of Insurance with the Village Engineer giving evidence of liability insurance in the following minimum amounts:

Worker's Compensation	Statutory Limits
Commercial Automobile Liability	\$2,000,000.00 per Accident for Bodily Injury and Property Damage Liability Combined.
Commercial General Liability	\$2,000,000.00 per Occurrence for Bodily Injury and Property Damage Liability Combined.

The Village Engineer may require higher amounts of liability insurance depending on the scope of the Excavation project. The Village and its officials, employees and agents shall be named as additional insureds on the commercial general and automobile liability policies. The insurance shall cover liability to third parties for the acts of the Applicant and Applicants officials and employees, agents, contractors, representatives and related others. The insurance shall cover bodily injury and property damage for the individual incidents and aggregates required by the Village Engineer. Such

insurance shall not be cancelled or reduced without the insurer giving at least 10 days prior written notice to the Village Engineer. Cancellation or reduction of insurance shall automatically suspend the permit, and no further work shall be done under such permit until a new certificate of insurance complying herewith is filed with the Village Engineer. The Certificate of Insurance shall remain in full force and effect for not less than one year from the date of the Village's final inspection after completion of the project. The insurance requirements under this subsection may be modified or waived by the Village Engineer when the applicant is a Public Utility and the Village Engineer has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.

- (4) **Bond.** A bond in the form of cash, performance bond issued by a licensed company in Wisconsin or irrevocable letter of credit issued by a financial institution acceptable to the Village shall be deposited or filed with the Village Engineer and preserved by the Village Treasurer prior to the issuance of the permit. The Village Engineer shall determine the minimum amount of a cash bond and the form and the minimum dollar amount of the performance security bond and letter of credit based upon the estimated cost of the project and to Restore the area involved to a condition the same or similar to that prior to the cut and/or Excavation. The bond or letter of credit shall be payable to the Village upon demand by the Village Engineer for any actual or suspected violation of any provision of this ordinance. The Village Engineer shall be able to demand payment upon the bond or letter of credit in whole or in-part at any time and from time-to-time. The bond or letter of credit shall be in such further form, content and requirements as the Village Engineer and Village Attorney may determine necessary and/or desirable to effect the intent of the Village Board in this ordinance. Except as provided in subsection 14-2-6(m)(9), the Village need not resort to any other remedy or provide any prior notice to the applicant or permittee before making demand upon, resorting to or receiving payment from the bond or letter of credit. In the event the cash bond, performance bond or letter of credit shall be insufficient for such purposes, the Permittee shall be liable to the Village for the excess cost over the amount of the bond or the amount collected by the Village on the irrevocable letter of credit. The bond or letter of credit shall remain in full force and effect for one (1) year from the date of the Village's final inspection after completion of the project. The bond requirements under this subsection may be modified or waived by the Village Engineer when the applicant is a Public Utility and the Village Engineer has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.
- (5) **Certificate of Authority.** A copy of the applicant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the Applicant is lawfully required to have such certificate from said commission or other state or federal agency.
- (6) **Corporate or Similar Certificate.** If the registration is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Wisconsin Department of Financial Institutions.
- (7) **Site Plan.** Each application shall contain, attached thereto, an accurate diagram and description of the Excavation site.

- (8) **Payment.** Payment of the permit fees and costs as set forth in this ordinance.
- (9) **Notice of Change.** The Applicant shall keep all of the information listed above current at all times by providing to the Village Engineer information as to changes within three (3) working days following the date on which the applicant has knowledge of any change.
- (10) **One Permit Per Site.** A separate permit must be applied for and held, and a separate fee paid, for each site, Excavation, cut and/or project. A separate permit is required for a new or emergency Excavation at a previously permitted site if the previous work or Excavation was completed.
- (11) **Permits Not Transferable.** Permits are not transferable to a different Person or Public Utility. Permits are not transferable from place to place.
- (12) **Permit Posting Required.** A photocopy of each issued Village Excavation Permit shall be conspicuously posted and maintained at the site until the project is completed.

(e) **Fees.**

- (1) Each Applicant shall pay a base application fee of \$35.00 to the Village. In addition, the following additional fees, as applicable, shall be calculated by the Village Engineer and paid to the Village by the Applicant at the time the written application is filed with the Village Engineering Department:

<b>Proposed work in the Right-of-Way</b>	<b>Fee</b>
Fiber Optic (Basic)	\$100.00
Bore Right-of-Law	\$25.00 per bore
Bore Sidewalks and Driveways	\$5.00 per bore
Standard Per 50' For Larger Jobs (overhead)	\$5.00 per 50'
Standard Per 50' For Larger Jobs (underground)	\$10.00 per 50'
Pole Installation	\$5.00 per pole
Cabinet and Pedestal	\$25.00 per cabinet/pedestal

- (2) **Fees non-refundable.** Permit fees are not refundable for any reason. The permit fees shall be in addition to any forfeiture provided elsewhere in this ordinance.

(f) **Costs Arising From Permittee Exceeding Specifications.**

- (1) **Reimbursement Required.** A Permittee exceeding the scope of the

project reported in the written application shall fully and forthwith reimburse the Village for all additional Village costs incurred in addition to the fees otherwise applicable and/or paid for the entire project as established. Such additional costs shall include, but not be limited to, actual salaries and staff time, benefits, overhead, vehicle and equipment costs, copies, inspections and other similar costs as specified under Wis. Adm. Code Sec. 130.05.

- (2) **Substantial Projects.** For applications that provide for a substantial undertaking of Excavation within a public Right-of-Way attended by disruption of the general public and traffic, the Village Engineer may assess the actual costs of the Village employees' time engaged in review and inspection of the anticipated plans and work, multiplied by a factor determined by the Village Engineer to represent the Village's actual costs and expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0, plus the costs of mileage, vehicle rental/use attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus ten percent (10%) for administration.

(g) **Exemptions.**

- (1) The Village and its public works contractors shall not pay fees or post a bond for Excavations pertaining to general governmental functions and projects, but shall apply for and hold a permit under this ordinance, and shall comply with all other provisions of this ordinance.
- (2) Plumbers who have applied for, paid the fee for, have been issued and hold a Village Excavation Permit for a particular site under Title 15 of the Village's Code of Ordinances.

(h) **Revocations, Suspensions, Refusals to Issue or Extend Permit.**

- (1) The Village Engineer may refuse to issue a permit or may administratively revoke, suspend or refuse to extend an existing permit if the Village Engineer finds any of the following grounds:
- (a) The Applicant, Permittee or occupant has failed to obtain a permit, failed to pay the full required fee(s) for, and/or has not fully complied with any provision or requirement of this ordinance;
  - (b) Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;
  - (c) Issuance of a permit would not be in the public's best interest;
  - (d) Issuance of the permit would be contrary to the health, welfare, safety or good order of the public, community or Village;
  - (e) There is a limitation of space as determined by the Village Engineer;
  - (f) Misrepresentation of any fact by the Applicant, Permittee or occupant, or anyone on their behalf;

- (g) Failure of the Applicant, Permittee or occupant to obtain, maintain or show proof of required bonds and/or insurance;
  - (h) Failure of the Applicant, Permittee or occupant to complete work in a timely or appropriate manner on any current or past Excavation project in the Village;
  - (i) Any current or past violation, breach or non-conformity with any provision of this ordinance by the Applicant, Permittee or occupant;
  - (j) The competing demands for the particular space in the Right-of-Way or other public property.
  - (k) The availability of other locations in the Right-of-Way or in other public property for the Facilities of the Permittee or Applicant;
  - (l) The applicability of ordinances or other regulations of the Right-of-Way or other public property that affect location of Facilities in the Right-of-Way; and
  - (m) The Excavation is proposed for a street, sidewalk, bike way, alley or other Right-of-Way or portion thereof newly installed, or recently resurfaced or reconstructed, and the Applicant chose not to Excavate and/or Repair/replace the utility before such new installation, resurfacing or reconstruction activities were completed. No excavation shall be allowed in newly installed or recently repaired or resurfaced public property and/or Rights-of-Way for five (5) years from completion of such new installation or recent repair or resurfacing. The Village Engineer may make exceptions to this rule for extraordinary circumstances and emergencies.
- (2) **Discretionary Issuance.** The Village Engineer may waive a particular requirement and issue a permit where issuance is necessary: (a) to prevent substantial economic hardship to a customer of the Permittee or Applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the Permittee or Applicant to comply with state or federal law or Village ordinance or an order of a court or administrative agency.

(i) **Reporting Obligations.**

It is in the best interests of all affected parties to attempt to coordinate construction in public property and/or the public Right-of-Way whenever it is reasonably possible. Therefore, periodic reporting by the Public Utility or the Applicant to the Village Engineer of known or projected construction plans shall occur and will be useful to achieve this objective.

(j) **Location of Facilities Underground.**

The permittee shall endeavor to install Facilities underground or within buildings or other structures in conformity with applicable codes and requirements of the Village Engineer, unless in conflict with state or federal law, existing above-

ground Facilities are used, or otherwise approved by the Village Engineer. The Village Engineer may direct that the installation be made underground if the public health, safety, or welfare so require.

(k) **Limitation of Space.**

The Village Engineer may prohibit or limit the placement of new or additional Facilities within public property and/or public Rights-of-Way if, in his determination, there is insufficient space to accommodate all of the requests of Persons or a Public Utility to occupy the site, public property and/or Right-of-Way. In making such decisions, the Village Engineer shall strive to the extent reasonably possible to accommodate all existing and potential users of the public property Right-of-Way, but may prohibit or limit the placement of new or additional Facilities when s/he determines such is required to protect, safeguard and/or facilitate the public health, safety, or welfare. In reaching this conclusion, the Village Engineer may consider the Public Utility's or Person's obligation to serve.

(l) **Attachment to bridges.**

Whenever an Applicant requests permission to attach pipes, conduits, cables, or wires to any village bridge structure, the Applicant shall pay all costs associated with the granting of such permission, including, but not limited to, administrative expenses in the analysis and inspection of such installation and Applicant's plans. The owner of such pipes, conduits, cables, or wires shall be entitled to no compensation for removal or relocation of the same in case of repair, removal, or replacement of said bridge structure by the Village or others on the Village's behalf, and/or any consequential damages directly and/or indirectly arising therefrom.

(m) **Standards; Construction, Repair and/or Restoration of paved or improved areas.**

All Excavations shall comply with the following:

- (1) **Surrounding Area; Precautions; Notices.** All paving and excavated materials shall be removed with the least possible damage to the surrounding area, and shall be placed where it will cause the least inconvenience to the public and where the same will not interfere with drainage or traffic. All Excavations shall be enclosed with sufficient barricades, and flashers shall be maintained upon said location during the hours of darkness. The Permittee shall provide and maintain proper barricades, signs, flags and flagmen at its expense. The Village may order the placement or use of additional safety devices and the Permittee shall pay all costs associated with their placement. All other necessary precautions to guard the public against accidents shall be taken by the



permittee. If necessary to protect the health, safety and public welfare, in addition to repairing its own work, the Permittee shall repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Village. Permittee shall provide notice to all public and private individuals, firms and corporations affected by the work and Digger's Hotline at least three (3) working days before such work is to start. Permittee shall notify the Village Engineer prior to the commencement of work and again at various stages of the work in the timeframes as specified by the Village Engineer.

- (2) **Style of Cut.** All Excavations in permanently improved Right-of-Way, streets and/or parking lots, sidewalks, bike trails, and the like, shall be made by final saw cuts around the perimeter of the Excavation in accordance with the specifications established by the Village Engineer.
- (3) **Boring; Backfilling.** Wherever feasible, boring under rather than excavating the paved portion of the Right-of-Way, shall be the method used in the case of paved, hard surface, highways. If boring is not feasible, the paved portion of Village Rights-of-Way not listed below may be open cut provided granular backfill material conforming to Section 6.43.4 of the Standard Specifications for Sewer and Water Construction in Wisconsin, latest edition, with any Addendums thereto, shall be used to backfill the trench. Backfill material shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor. If boring is not feasible, the paved portion of the below listed roads may be Excavated, provided the trench is backfilled with aggregate slurry backfill material conforming to Section 6.43.8 of the "Standard Specifications" cited above:

7 Mile Road, 6 Mile Road, 5 Mile Road, 4 1/2 Mile Road, 4 Mile Road, 3 Mile Road, Dunkelow Road, Nicholson Road, Green Bay Road, Middle Road, Charles Street, and Erie Street.

If an Applicant wishes to vary the requirements of this subsection so as to employ an equal or more effective method of compaction, the Applicant shall first obtain the written permission of the Village Engineer. If such permission is received and it later appears that the alternate method being employed is not, in the judgment of the Village Engineer, equally or more effective than the provisions of this subsection, the contractor shall revert to the means specified in this subsection.

- (4) **Trench Flooding Prohibited.** In no case will flooding of the trenches be allowed as a compaction method.
- (5) **Pavement Restoration.** After filling of the trench is completed to the satisfaction of the Village Engineer, the Permittee shall Restore the pavement of the highway so as to conform to the surrounding pavement as soon as such repavement is practical and feasible. Unless otherwise required by the Village Engineer, disturbed pavement shall be replaced by the Permittee, or an authorized contractor retained by the Village, at the

Permittee's sole cost and expense. The Permittee shall use only materials approved by the Village Engineer. The site shall be fully and timely restored by the Permittee to a condition better than it was immediately prior to the Excavation and in full accord with each and every specification of the Village as from time-to-time supplemented, amended or otherwise modified. However, when a Permittee is a Public Utility, the Right-of-Way shall be restored to at least its original condition.

- (6) **Restoration of Unpaved Areas.** All Excavations in areas which are not paved shall be backfilled with natural material compacted in 12" layers with mechanical compaction equipment. The surface shall be restored to its original condition, subject to the approval of the Village Engineer. The Permittee shall guarantee this work for twenty-four (24) months from the date of Village final inspection after project completion.
- (7) **Maintenance.** The Permittee shall be responsible for all costs associated with maintaining the temporary and permanent Repairs and Restorations in accordance with Village Engineer specifications until the Repairs/Restorations are accepted by the Village. Upon acceptance, the guarantee provisions under subsection (n) below are applicable. In all cases, the permittee shall be required to Repair the site to Village specifications and standards subject to inspection and acceptance by the Village.
- (8) **Inspections and Acceptance.** At the beginning and at the end of the project, the Permittee shall immediately notify the Village Engineer. The Village Engineer shall inspect the area of the work and accept the work at the end when the Village Engineer determines that proper Repair and/or Restoration has been made in accord with all specifications and requirements of the Village. The Permittee shall make the work site available to the Village Engineer and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- (9) **Failure to Repair/Restore.** In the event that the Village Engineer determines that the initial or any subsequent Repair and/or Restoration work or work area have not been timely or otherwise not Repaired or Restored as required or directed, then the Village Engineer shall inform or notify the Permittee who shall then forthwith perform and/or re-do the required work solely at Permittee's cost and expense. Permittee shall then notify the Village Engineer of the remedial work completion. The Village Engineer shall then reinspect the work. If the Permittee fails to restore the worksite to its specified condition within fourteen (14) days of being notified to do so, the Village Engineer shall have the right to do any and all necessary restoration work. The Permittee shall be liable for the actual cost thereof plus twenty-five percent (25%) of such cost for overhead and administrative expenses, including but not limited to those expenses identified under Adm. Code. Sec. 130.05. The costs of said work shall be deducted from the cash deposit, drawn on the bond or letter of credit or billed directly to the Permittee. Should the costs of repairs exceed the

cash deposit, bond or letter of credit posted, the additional amount shall be billed. Any billed costs shall be paid within thirty (30) days of the billing date. No future Excavation permits shall be issued to the Applicant until such invoices are paid in full. At any time after the fourteen (14) day notice and opportunity to cure as specified above, the Village Engineer may demand and/or draw upon the Permittee's bond to cause the work to be performed adequately. In addition to all of these steps and remedies, and in addition to and not in lieu of any enforcement, forfeitures, penalties, injunctive and/or other relief, the Village Engineer may use Village crews and/or contract with third parties to perform and/or complete the Repairs and/or Restoration, and charge/invoice the Permittee for the costs and expenses of such work. The Permittee shall forthwith pay in full such invoice to the Village within thirty (30) days of the billing date.

- (n) **Guarantee.** The Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During this period it shall, upon notification from the Village Engineer, immediately correct, repair, restore and/or re-do any and all work and portions thereof to the extent required or directed by the Village Engineer, using the method and within the time required by the Village Engineer. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Village, not including days during which work cannot be done because of circumstances constituting force majeure. If the repair and/or replacement pavement or material settles or cracks within five (5) years of the date of the permit and if failure of the repair and/or replacement is due to improper backfill, compaction or materials, the pavement and backfill in the Excavation area shall be forthwith removed and replaced at the expense of the Permittee.

- (o) **Relocation of Facilities.**

An occupant must promptly and at its own expense permanently remove and relocate its Facilities in the public property or Right-of-Way whenever the Village and/or Village Engineer, jointly or severally acting in his/her or its governmental capacity, and having determined that the public health, safety, or welfare so requires, requests such removal and relocation. Notwithstanding the forgoing, an occupant shall not be required to remove or relocate its Facilities from any Right-of-Way or other public property that has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the occupant therefor.

- (p) **Interference With Other Facilities During Municipal Construction.** When the Village performs work in the Right-of-Way or other public property and the Village Engineer finds it necessary to maintain, support, shore, or move an occupant's Facilities, the Village Engineer shall notify the Local Representative. The occupant shall meet with the Village's representative within twenty-four (24)

hours and coordinate the protection, maintenance, supporting, and/or shoring of the occupant's Facilities. The occupant shall accomplish the needed work within seventy-two (72) hours, unless the Village agrees to a longer period. In the event that the occupant does not proceed to maintain, support, shore, or move its Facilities within such time, the Village may arrange to do the work and bill the occupant, said bill to be paid within thirty (30) days of the billing date.

(q) **Abandoned and Unused Facilities.**

- (1) **Discontinued Operations.** An occupant or Permittee who has decided to discontinue its operations must either:
  - (a) Timely provide information satisfactory to the Village Engineer that the occupant's or Permittee's obligations under this ordinance for its Facilities have been lawfully assumed by another occupant or Permittee; or
  - (b) Submit to the Village Engineer a proposal and instruments for transferring ownership of its Facilities to the Village. If an occupant proceeds under this clause, the Village may, at its option:
    1. Accept the dedication for all or a portion of the Facilities; or
    2. Require the occupant, at its own expense, to remove the Facilities; or
    3. Require the occupant to forthwith post a bond or provide payment in an amount determined by the Village Engineer sufficient to reimburse the Village for reasonably anticipated costs to be incurred in removing the Facilities.
- (2) **Abandoned Facilities.** Facilities that remain unused for two (2) years shall be deemed abandoned. Any occupant or Permittee having abandoned equipment in any public property and/or Right-of-Way shall remove it within two years, unless the Village Engineer waives this requirement. Abandoned Facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may, at its option, abate the nuisance, take possession of the Facilities, or require the removal of the Facilities by the occupant or the occupant's successor in interest, or exercise any of its other rights under this ordinance. A determination by the Village Engineer that a facility is abandoned shall be conclusive, final and binding on the occupant and/or Permittee.

(r) **Emergency situations.**

Each occupant, Permittee and/or their agent shall immediately notify the Village Engineer by verbal notice on an emergency phone number provided by the Village Engineer of any event regarding its Facilities that it considers to be an emergency. The occupant, Permittee and/or their agent may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the occupant, Permittee and agent shall apply for the

necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this ordinance.

(s) **Compliance with Village Engineer Directions.**

An Applicant, Permittee and occupant shall forthwith comply with each and every verbal and written direction and requirement of the Village Engineer.

(t) **Compliance with Other Laws.**

Obtaining a permit to Excavate and/or occupy the Right-of-Way or other Village property does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other Village, County, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the Right-of-Way pursuant to its permit, regardless of who does the work.

(u) **Vicarious Liability.**

Each Applicant, Permittee and occupant is vicariously responsible and liable under this ordinance for the actions of the respective Applicant's, Permittee's and occupant's employees, contractors and agents, and is liable for violations by them, jointly and severally.

(v) **No Repeal of Tree Requirements.**

Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain a tree lawn in the area of the Right-of-Way between their property and the street curb or pavement, construct sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this ordinance.

(w) **Raising or lower street grade or surface prohibited.**

No Person or Public Utility, unless duly authorized in writing by the Village Engineer or by formal action of the Village board, shall raise or lower the surface of any street above or below the established grade, or remove any earth or soil from any street, or interfere with the surface or soil of any street in any manner whatsoever.

(x) **Double Fees.**

(1) Any Person or Public Utility who commences any activities for which a permit is required under this ordinance without first having applied for,

paid the fee for and/or holding the required permit shall still be required to apply for, pay the fees for and hold the requisite permit before continuing any Excavation or other activities upon the site.

- (2) Such Person or Public Utility shall also be required to pay double the fees otherwise applicable.

(y) **Appeal of Decisions.**

Any Applicant, Permittee, occupant or other person aggrieved by a decision of the Village Engineer under this ordinance may file a written appeal with the Village Engineer requesting review before the Village Plan Commission. An appeal shall be filed within ten (10) days of the decision or direction. The Plan Commission shall commence a hearing within sixty (60) days of the filing of the appeal. The determination of the Plan Commission shall be subject to review and approval by the Village Board. Section 4-1-9 et. seq. of the Village's Code of Ordinances shall govern the hearing process. Chapter 68, Wisconsin Statutes, shall not apply to this administrative appeal process. The appeal shall be signed and dated by a person authorized to appeal or to act on behalf of such person. The appeal form shall require such other information as the Village Engineer may from time-to-time require.

(z) **Severability.**

If any subsection, sentence, clause, phrase or portion of this Section is held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(aa) **Violations -- Penalty -- Injunctive and Other Relief.**

- (1) Any person, employee, officer or principal of any Person or Public Utility who violates, causes or permits to be violated any provision of this ordinance, requirement or specification of the Village or Village Engineer, upon conviction thereof, shall pay a forfeiture to the Village of not less than One Hundred Dollars (\$100.00) nor more than Ten Thousand Dollars (\$10,000.00), together with the costs of prosecution and in default of payment thereof, shall be imprisoned in the Racine County Jail for not less than five (5) days nor more than ninety (90) days, or dealt with as otherwise provided by law.
- (2) It shall be the ongoing responsibility of the offender to timely abate the violation(s) as quickly as possible.
- (3) Each and every violation constitutes a separate punishable offense.
- (4) Each and every day that a violation continues constitutes a separate punishable offense.
- (5) The Village, in addition to the above penalties, may institute and seek

injunctive relief through circuit court and/or may commence, maintain and prosecute one or more related or additional actions to achieve compliance and/or enjoin, abate or remove the violation(s); and the Village Board may also revoke or suspend any permit issued hereunder. The Village Engineer may deny the issuance of a permit to an Applicant who has been convicted of a previous violation of this ordinance, or who has violated, or is violating any provision of this ordinance as determined in the sole discretion of the Village Engineer.

- (6) If a permit were issued, such issuance shall not constitute a defense for the offender, nor shall any error, oversight, previous non-enforcement of a similar or separate violation, or dereliction of duty on the part of any Village official, board or body constitute any defense.

**SEC. 14-2-7 DISRUPTION OF DRAINAGE.**

- (a) It shall be unlawful for any person, firm, corporation, or public utility to fill or obstruct any ditch alongside a Town road, any drainage easement, or any creek, stream, river or canal, with any dirt, debris or construction, without prior written approval of the Town Engineer.
- (b) It shall be unlawful for any person, firm, corporation or public utility to landscape, cultivate, plow or remove soil from their property in such manner as to obstruct or fill any ditch, drainage easement, creek, stream, river or canal, without prior written approval of the Town Engineer.
- (c) Any person, firm, corporation or public utility who fills or obstructs or causes to be filled or obstructed any ditch, drainage easement, creek, stream, river or canal in violation of (1) or (2) above shall on written order from the Town Engineer, correct such violation and restore the affected, ditch, drainage easement, creek, stream, river or canal at his own expense. If corrective and restorative action is not commenced within ten (10) days after receipt of such written order, or completed within such reasonable time as the Town Engineer shall specify in writing, the Town may proceed with such work as is necessary for said correction and restoration and may charge the costs of the work to the violator, to be collected through legal action or the levying of a special tax or assessment.
- (d) Failure to comply with the provisions of this section shall constitute a public nuisance.

Any person, firm, corporation or public utility violating the terms of this section shall be guilty of a violation and upon adjudication to that effect, shall be subject to a forfeiture of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and in default of payment of such forfeiture, shall be subjected to imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days.

## CHAPTER 3

### Subdivision Controls

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
14-3-1	General Provisions.		
14-3-2	Definitions.		
14-3-3	Application Procedure and Approval Process.	2005-01	04/19/05
14-3-4	Requirements for Design and Improvements.	2005-01 2006-03 2006-12	04/19/05 05/02/06 12/19/06
14-3-5	Ownership and Management of Common Open Space and Common Facilities.		
14-3-6	Temporary Moratorium on Land Divisions	2005-20 2006-02	12/20/05 01/17/06
	Exhibits A		

#### SEC. 14-3-1 GENERAL PROVISIONS.

- (a) **Title.** These regulations shall officially be known, cited, and referred to as the Conservation Subdivision Ordinance of the Town of Caledonia, Wisconsin (hereinafter “Ordinance”).
- (b) **Intent and Purposes.** This Ordinance is adopted for the following purposes:
- (1) To guide the future growth and development of the community in accordance with the Town’s adopted land use plan.
  - (2) To preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the Town’s resource inventory maps.
  - (3) To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.
  - (4) To ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for storm water management, floodwater storage, and ground water recharge.
  - (5) To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
  - (6) To use ecological planning principles in the design, construction and long-term management of conservation developments.
  - (7) To allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally-sensitive areas or agriculture-productive areas on other portions of the parcel.
  - (8) To preserve scenic views by minimizing visibility of new development from existing roads.



- (9) To provide buffering between residential development and non-residential uses.
  - (10) To provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
  - (11) To preserve significant archaeological sites, historic buildings and their settings.
  - (12) To protect and preserve an interconnected network of open space throughout the Town, and to help establish effective Buffers around working farms and along boundaries of existing protected lands (such as parks).
- (c) **Statutory Authorization.** This Ordinance is adopted pursuant to the authority contained in section 236.45 of the Wisconsin Statutes.
- (d) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Town of Caledonia, Wisconsin.  
The Ordinance does not apply to:
- (1) Transfers of interests in land by will or pursuant to court order.
  - (2) Cemetery plats under section 157.07 of the Wisconsin Statutes.
  - (3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Ordinance or other applicable laws or ordinances.
  - (4) Assessors' plats made under section 70.27 of the Wisconsin Statutes, but such assessors' plats shall comply with sections 236.15(1)(a)--(g) and 236.20(1), (2)(a)--(c), of the Wisconsin Statutes.
- (e) **Applicability and Compliance.** It is the goal of the Town in adopting this Ordinance that development within the Town shall occur through Conservation Subdivisions wherever possible whether residential or of another nature. Accordingly, compliance with this Ordinance is mandatory for any proposed Subdivision that has not received preliminary plat approval as of the effective date of this Ordinance.

This Ordinance applies to a land division of a Parent Parcel of three (3) acres or more by a Subdivider where the land division creates five (5) or more new parcels or building sites by successive division within a five (5) year period. The number of new parcels that can be created by the land division of the Parent Parcel shall be consistent with the Town's land use plan, this Ordinance and applicable county and state regulations and requirements.

- (1) No person shall divide any land under the provisions of this Ordinance without compliance with all requirements of this Ordinance and the following:
  - a. The provisions of Wis. Stats. ch. 236 and Wis. Stats. Section 80.08.
  - b. The rules of the Wisconsin Department of Commerce, contained in Chapter COMM 83 of the Wisconsin Administrative Code, for land divisions not served by public sewer.
  - c. The rules of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, contained in Chapter TRANS 233 of the Wisconsin Administrative Code, for subdivisions that abut a state trunk highway or connecting street.
  - d. The rules of the Wisconsin Department of Natural Resources contained in Chapters NR 115, 116, 117, 151 and 216 of the Wisconsin Administrative Code for shoreland, shoreland-wetland, and floodplain management.
  - e. The land use plan and neighborhood plans where applicable and not

- inconsistent with the land use plan adopted by the Town.
    - f. All applicable local and county regulations including zoning, subdivision, sanitary, utility, building and official mapping ordinances.
    - g. All other applicable rules contained in the Wisconsin Administrative Code.
    - h. All provisions of Title 14 of the Code of Ordinances for the Town of Caledonia that are not in conflict, contradictory, or inconsistent with the provisions of this Ordinance.
- (f) **Condominium Plats.** A condominium plat prepared under Chapter 703 of the Wisconsin Statutes, which creates five (5) or more new units from a land division of a Parent Parcel of three (3) acres or more by successive division within a five (5) year period, shall be reviewed by the Town in the same manner as a Conservation Subdivision as set forth in this Ordinance and shall comply with the applicable design standards and required improvements of this Ordinance.
- (g) **Abrogation and Greater Restrictions.**
  - (1) **Public Provisions.** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
  - (2) **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.
- (h) **Interpretation.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly in favor of the Town to promote the purposes for which they are adopted.
- (i) **Separability.** If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered. It shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town Board of the Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.
- (j) **Enforcement, Violations, Penalties.**
  - (1) **Violations.** It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this Ordinance or state law, and no person shall be issued a building permit by the Town authorizing the building on or improvement of any subdivision within the jurisdiction of this Ordinance not of record as of the effective

date of this Ordinance until the requirements of this chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or applicable state law.

- (2) **Penalties.** Penalties for violation of this Ordinance shall be as follows:
- a. Any person who fails to comply with this chapter shall, upon conviction, be subject to the penalties as provided by the Town.
  - b. Recordation improperly made has penalties provided for in section 236.30 of the Wisconsin Statutes.
  - c. Conveyance of lots in unrecorded plats has penalties provided for in section 236.31 of the Wisconsin Statutes.
  - d. Monuments disturbed or not placed have penalties as provided for in section 236.32 of the Wisconsin Statutes.
  - e. Assessor's plat made under Section 70.27 of the Wisconsin Statutes may be ordered by the Town as a remedy at the expense of the Subdivider when a subdivision is created by successive divisions.
- (3) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat under this Ordinance may appeal therefrom, as provided in sections 236.13(5) and 62.23(7)(e) 10, 14, and 15, of the Wisconsin Statutes, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

(k) **Modifications or Waivers.**

- (1) **Authority; Application.**
- a. Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this Title because an exceptional circumstance exists, the Town Board may waive or modify any requirements to the extent deemed just and proper.
  - b. Application for any such modification or waiver shall be made in writing by the Subdivider at the time when the initial application required under Section 14-3-3 is filed for consideration, along with the Modification or Waiver Checklist, stating fully all facts relied upon by the Subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the Town Board in the analysis of the proposed project.
  - c. Before the Town Board may act on a request for modification or waiver, the application and all supporting material must first be presented to the Plan Commission for its review and recommendation based upon the factors set forth below. The Town Clerk shall, within forty-five (45) days of receipt of the Application for a modification or waiver, place the matter on a Town Plan Commission Agenda for review and action.
- (2) **Considerations.** The Town Board shall consider the following factors, in addition to any other factors deemed relevant by it:
- a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the Chapter.
  - b. Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.

- c. Whether the request for waiver or modification, if granted, would benefit the Subdivider's project in a way that is not consistent with the Town's interests.
  - d. Whether Subdivider is in full compliance with other applicable ordinances and agreements with the Town.
  - e. Whether, instead of granting the request for a waiver or modification, the Chapter itself should be changed to accommodate the kind of situation presented by the Subdivider.
  - f. Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
  - g. Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- (3) **Granting by Town Board.**
- a. The Town Board, if it approves of the modification or waiver of the application of this Chapter or any portion of it, shall do so by written resolution and shall instruct the Town Engineer to notify the Subdivider.
  - b. A majority vote of the Town Board shall be required to grant any modification or waiver to this Chapter. The reasons why such modification or waiver was granted shall be set forth in the resolution.
  - c. Conservation principles shall be applied in all Subdivisions. Any relief granted shall be done so without impairing the intent and purpose of this Chapter or the desirable general development of the Town in accordance with the Town Land Use Plan.
- (4) **Past Non-Compliance Not Waived.** A waiver or modification that is granted pursuant to a written request as described in this Section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this Chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the Town Board.
- (l) **Fees.** The Town Board may, by resolution, establish reasonable fees for the administration of this Ordinance.
- (m) **Checklists.** The Town Board may, by motion or resolution, provide for checklists to be created and utilized for the administration of this Ordinance.

### **SEC. 14-3-2 DEFINITIONS.**

The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word "shall" is mandatory and the word "may" is permissive.

- (a) **Base Development Yield.** The number of dwelling units authorized by the Plan Commission for the Conservation Subdivision, not including any dwelling units authorized as a result of a development yield bonus.
- (b) **Buffer.** An area of land that serves as a protective barrier for an environmentally sensitive area, natural viewshed or agricultural lands.
- (c) **Common Open Space.** Undeveloped land within a Conservation Subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development, or for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common Open Space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed, as appropriate, and a Stewardship Plan shall be prepared for the open space.
- (d) **Common Facilities.** Those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.
- (e) **Condominium.** A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes. A condominium is a legal form of ownership of real estate and not a specific building type or style.
- (f) **Conservation Easement.** A non-possessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in Wis. Stats. §700.40 (Uniform Conservation Easement Act) and Section 170(h) of the Internal Revenue Code.
- (g) **Conservation Subdivision.** A development in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the development to be preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features.
- (h) **Density Factor.** The number of dwelling units permitted per acre according to the Town's land use plan, applicable neighborhood plans, the Town's ordinances, and applicable zoning regulations.
- (i) **Development Envelopes.** Areas within which pavement and buildings will be located.
- (j) **Ecological Restoration.** To protect, enhance, recreate or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a Stewardship Plan for uplands, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and the planting of those varieties of plants that are indigenous to the area.
- (k) **Flag Lots.** A lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.
- (l) **Floodplains.** Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record.
- (m) **Homeowners' Association.** A community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or Common Facilities.

- (n) **Net Density.** The number of dwelling units permitted in the Conservation Subdivision prior to calculating and adding any Development Yield Bonus under section 14-3-4(b). This number is obtained by performing the following calculation:
  - (1) Derive the net acreage for the Parent Parcel by subtracting from the gross acreage of the Parent Parcel the acreage consisting of the following existing features: street rights-of-way, restrictive utilities rights-of-way, floodplains, wetlands, slopes greater than 12% in environmentally sensitive areas and slopes of 20% in all other areas, streams, ponds, lakes, and reserved street rights-of-way or accepted dedications of streets and those areas held to be unsuitable under subsection 14-3-4(a).
  - (2) Determine the Density Factor as permitted for the Parent Parcel from the Town land use plan and zoning requirements applicable to the Parent Parcel, taking into account the Town preference, if any is indicated on the land use plan, for a Density Factor consistent with the surrounding neighborhood;
  - (3) Multiply the net acreage result under sub. (1) the applicable Density Factor under sub. (2) to obtain the Net Density for the Parent Parcel.
- (o) **Non-Profit Conservation Organization.** Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.
- (p) **Parent Parcel.** The existing parcel of record, as of the effective date of this Ordinance.
- (q) **Primary Environmental Corridor.** A concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
- (r) **Professional Ecological Services.** An individual or firm with professional qualifications to prepare and implement an ecological Stewardship Plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.
- (s) **Secondary Environmental Corridor.** A concentration of significant natural resources at least 100 acres in area and at least one mile in length. Where such corridors serve to link primary environmental corridors, no minimum area or length criteria apply. Secondary Environmental Corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
- (t) **Shoreland.** Shoreland shall mean those areas abutting a lake, pond, wetland, river or stream as classified and within the distances specified under NR 151.12(5)(d) of the Wisconsin Administrative Code.
- (u) **Stewardship Plan.** A comprehensive management plan for the long term enhancement and sustainability of natural ecosystems (uplands - including forests, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.
- (v) **Storm water Treatment Train.** A combination of physical and biological features that

are constructed or planted to convey, cleanse, and enhance storm water quality before the remaining water is released to receiving waters.

- (w) **Subdivider.** Any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a Conservation Subdivision.
- (x) **Subdivision.** The division of a lot, outlot, parcel or tract of land by the owner thereof, or his/her agent, for the purpose of transferring ownership or of building development, where the act of division of a Parent Parcel of three (3) or more acres creates five (5) or more parcels or building sites or the act of division of a Parent Parcel of three (3) or more acres creates five (5) or more new parcels or building sites by successive division within a five (5) year period. In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.
- (y) **Woodlands.** Upland areas at least one acre in extent covered by deciduous or coniferous trees as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
- (z) **Yield Plan.** The Subdivider's plan for the number of units for a parcel.

### SEC. 14-3-3 APPLICATION PROCEDURE AND APPROVAL PROCESS

- (a) **Initial Conference.** Before submitting an application for a Conservation Subdivision, the Subdivider shall schedule an appointment and meet with the Engineering Department to discuss the procedure for approval of a Conservation Subdivision, including submittal requirements and design standards. The Engineering Department shall notify the Town Board and Plan Commission of such appointment, and one member of the Town Board and one member of the Town Plan Commission, along with the Town's land use planner, may participate in the Initial Conference and Initial Application process. Subdivider shall also notify the proposed Conservation Easement holder of this meeting and request their participation. Any costs incurred related to the participation of the proposed Conservation Easement holder are the sole responsibility of the Subdivider and shall be paid directly by Subdivider to the proposed Conservation Easement holder.
- (b) **Initial Application.** After the initial conference, the Subdivider shall submit the Initial Application Checklist and a series of maps and descriptive information to the Engineering Department according to the criteria set forth below. Mapping for the initial application can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.
  - (1) **Inventory and Mapping of Existing Resources.** The Subdivider shall include the following mapped at a scale of no less than one inch = 50 feet:
    - a. Topographic contours at 2-foot intervals.
    - b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Identification of hydric soils (wetland soils). Type and stability of bedrock should also be noted, particularly in Karst areas and areas with high potential for ground water contamination due to fractured bedrock or the presence of arsenic and mercury.
    - c. Hydrologic characteristics, including surface water bodies, floodplains,

groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainage ways, and slopes of 12% or greater.

- d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use Wisconsin land or comparable cover type classifications and do on-site cover type analysis.
  - e. Known critical habitat areas for rare, threatened or endangered species.
  - f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
  - g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.
  - h. Unique geological resources, such as rock outcrops and glacial features.
- (2) **Development Yield Analysis.** The Subdivider shall submit a development yield analysis, including a Yield Plan, showing the Net Density. The development yield analysis may also include any development yield bonus(es) which may be applicable under section 14-3-4(b)(2).
- (3) **Site Analysis and Concept Plan.** Using the inventory provided in section 14-3-3(b)(1), the development yield analysis provided in section 14-3-3(b)(2), and applying the design standards specified in section 14-3-4 of this Ordinance, the Subdivider shall submit a concept plan including at least the information set forth below at a scale of no less than one inch = 50 feet. The concept plan shall be submitted as an overlay to the inventory map.
- a. Open space areas indicating which areas are to remain undeveloped, areas for interior open space, and trail location.
  - b. Boundaries of areas to be developed and proposed general street and lot layout.
  - c. Number and type (i.e., single-family, multi-family) of housing units proposed.
  - d. Proposed methods for and location of water supply, storm water management (e.g., best management practices) and sewage treatment.
  - e. Inventory of preserved and disturbed natural features and prominent views.
  - f. Preliminary Development Envelopes showing areas for lawns, pavement, buildings, and grading.
  - g. Proposed methods for ownership and management of open space.
  - h. Formal open spaces indicating parks, easements, trail routing and drainage easements.
  - i. Integration of Ecological Restoration, Buffers, and Storm water Treatment Train.
- (4) **General Location Map.** The Subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1



inch: 400 feet.

- (5) **Evidence of Ownership and Survey Required.** Subdivider shall submit a report of title from a title company acceptable to the Town showing current ownership of the property proposed to be developed and all encumbrances, together with copies of all easements, covenants, liens and any other encumbrances, defects or clouds on the title appearing in the public record or known to the Subdivider or owner of record and shall provide a land survey by a registered land surveyor showing encumbrances of record including the requirements as specified in this Sec. 14-3-3. A copy of the report of title and survey shall be delivered to the Town Attorney and the proposed Conservation Easement holder at the same time it is delivered to the Town Engineer.
  - (6) **Phase I Environmental Site Assessment.** Subdivider shall have a Phase 1 Environmental Site Assessment in compliance with ASTM Standard E1527-00 "Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process" and shall provide a copy of the assessment to the Town and to the proposed Conservation Easement holder. All costs incurred for this assessment shall be the responsibility of Subdivider.
- (c) **Reimbursement of Engineering, Planning, Legal and Administrative Costs and Payment of Land Division Fee.**
- (1) The Subdivider and Town shall enter into a pre-development agreement requiring the Subdivider to pay to the Town all reasonable costs for engineering, planning, legal and administrative expenses incurred by the Town in:
    - a. processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats; and
    - b. processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.
  - (2) Such costs shall include the costs of its own engineers, attorneys, inspectors, agents, sub-contractors and employees. The cost for Town employees' time shall be based upon the classification of the employee and the rates established by the Town Board, from time to time, for each such classification.
  - (3) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the Subdivider shall deposit with the Town Treasurer the sum of three thousand dollars (\$3,000.00) in the form of cash. A Land Splitter shall deposit a one thousand dollar (\$1,000.00) cash deposit with the Town Treasurer at the time of submission of a certified survey map. The Town shall apply such funds toward payment of the above costs. If at any time said deposit becomes insufficient to pay expenses incurred by the Town for the above costs, the Subdivider shall deposit required additional amounts within fifteen (15) days of written demand by the Town Engineer. Until the required funds are received, no additional work or review will be performed by the Town as to the development plan under consideration. The Town may also reject any pending certified survey map, preliminary or final plat for non-payment of the costs under this section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified

survey map or plat and prior to final approval, (including abandonment due to rejection by any reviewing agency), the Town shall furnish the Subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to Subdivider, and any costs in excess of such deposit shall be paid by the Subdivider. Any interest earned on said deposit shall remain the property of the Town to partially offset administrative expenses associated with planning and development.

- (4) In addition to reimbursement of the above costs, the Subdivider shall be responsible for payment to the Town of a land division fee in the amount of \$100.00 per parcel created. Said fee shall be submitted at the time of execution by the Subdivider of the Development Agreement required below.

(d) **Review of Initial Application.**

(1) **Engineering Department Review.**

- a. The Engineering Department shall make the determination of whether the initial application is complete. Within 60 days following the filing of a complete initial application, the Engineering Department shall meet with the Subdivider to review the initial application. As a condition of further review of the initial application, concept plan, preliminary plat or final plat, the Subdivider shall and hereby does grant permission for Town officials, employees and agents to enter upon the subject property in furtherance of their official duties.
- b. Staff from appropriate county and state agencies may also be requested by the Town to review the application.
- c. The Engineering Department shall schedule a visit to the site with the Subdivider and notify the Plan Commission, the Town Board and the proposed Conservation Easement holder of the site visit date and time. This visit shall be to review the existing features of the site and the concept plan. The visit shall occur prior to or as part of the meeting.
- d. Within 30 days following the meeting under paragraph a, the Engineering Department shall provide a written report informing the Subdivider of any additions, changes, or corrections to the concept plan submitted as part of the initial application.

(2) **Plan Commission Review.**

- a. Before submission of a preliminary plat, the Subdivider or Subdivider's agent shall meet with the Plan Commission to review and discuss the concept plan, and to permit members of the public an opportunity to speak as to the plan. Subdivider is required to provide written notice of the Plan Commission meeting to the owners of all adjacent and abutting parcels, including across the street, road or highway, to the Parent Parcel at least seven days in advance of the meeting. The notice must be sent by regular U.S. mail. The Subdivider shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost for such written notice shall be borne by the Subdivider.
- b. The Plan Commission shall establish a recommended Base Development Yield for the Subdivision as follows: The Plan Commission shall approve the

recommended Net Density, or establish an adjusted recommended Net Density by making adjustments based on consideration of the natural features of the site, available neighborhood plans, available or anticipated infrastructure, and the density of the surrounding areas. Where applicable, the Base Development Yield may also be adjusted at this step to include any Development Yield Bonus(es) available pursuant to section 14-3-4(b)(2).

- (3) **Town Board Action.**
  - a. After receipt of the Plan Commission's recommended Base Development Yield for the Subdivision, the Town Board shall approve, approve conditionally, modify or reject such recommendation and shall state, in writing, conditions of approval or modification or reasons for rejection. The Town Engineer shall communicate to the Subdivider the action of the Town Board.
  - b. The Town Board's action under this section is based on limited information submitted to date and any Base Development Yield approved is subject to adjustments by the Town based on new and/or additional information received during the preliminary and/or final plat review process.
- (e) **Preliminary Plat Review and Approval Procedures.** Following review and comment of the Engineering Department on the initial application, the Subdivider or Subdivider's agent shall file with the Engineering Department an application for review and approval of a preliminary plat by the Town Plan Commission with the checklist, along with two 22"x30" and thirty-five 11"x17" copies of the preliminary plat. One additional copy of the preliminary plat shall be provided to the Town Attorney and to the proposed Conservation Easement holder. The Town Engineer may require, in his or her discretion, the submittal of road, grading and/or drainage plans or preliminary concept plans thereof at the time of submission of the preliminary plat. No preliminary plat will be accepted for review unless the Subdivider has complied with Sec. 14-3-3, Initial Application. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.
  - (1) **Referral.** Administrative staff and utility commission reviews. The Engineering Department shall provide copies of the preliminary plat to Town department heads, to the appropriate objecting agencies under Wis. Stats. Section 236.12, and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for consideration during the review process.
  - (2) **Town Plan Commission Review and Informational Meeting.** The Town Clerk shall give notice of the Plan Commission's review of the preliminary plat by listing it as an agenda item in the Plan Commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. Property owners within 300 feet of the proposed land division shall receive written notice of the Plan Commission's review. The notice must be sent by regular U.S. mail. The Subdivider shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The Town Clerk may schedule an informational meeting on the preliminary plat. If the Town does schedule an informational meeting, it shall provide notice under the same parameters as notice for the Plan

Commission's review above.

- (3) **Plan Commission Recommendation.** After review of the preliminary plat and discussions with the Subdivider on changes and the kind and extent of public improvements that will be required, the Plan Commission shall recommend to the Town Board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the filing date. Any preliminary plat recommended for approval shall include conditions, to the extent applicable, of a Development Agreement, Conservation Easement, and Stewardship Plan in forms acceptable to the Town Board and in compliance with the Town Ordinances.
- (4) **Board Action.** After receipt of the Town Plan Commission's recommendation, the Town Board shall, within 90 days of the date the preliminary plat was filed with the Engineering Department, approve, approve conditionally, or reject such preliminary plat and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the Subdivider, failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The Engineering Department shall communicate to the Subdivider the action of the Town Board. If the preliminary plat is approved, the Engineering Department shall endorse it for the Town Board. Any preliminary plat approved shall include conditions, to the extent applicable, of a Development Agreement, Conservation Easement, and Stewardship Plan in forms acceptable to the Town Board and in compliance with the Town Ordinances.
- (5) **Effect of Approval.** Approval of a preliminary plat shall be valid for twenty-four months from the date of approval or conditional approval. Subject to section 236.11(1)(b), Wis. Stats., approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Plan Commission and Town Board at the time of its submission.
- (6) **Amendment.** If the Subdivider desires to amend the preliminary plat as approved, the Subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which case it shall be refiled. The Town reserves the right to require an additional fee where, in the opinion of the Town Board, such amendment requires significant additional Town resources.
- (f) **Preliminary Plat Requirements.** The preliminary plat shall be prepared by a licensed land surveyor or engineer at a convenient scale not less than one (1) inch equals one hundred (100) feet. A preliminary plat shall be prepared in accordance with applicable state statutes, the Racine County Code of Ordinances and this Ordinance. More than one (1) sheet may be used to present the information required in this section:
  - (1) **Name of the Proposed Subdivision.** The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the County.
  - (2) **Project Ownership and Development Information.**
    - a. Name, address, and telephone number of the legal owner of the Parent

- Parcel and, if applicable, agent of the property.
  - b. Name, address, and telephone number of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys.
  - c. Date of preparation.
- (3) **Existing Site Conditions.** Provide this information on a property survey map.
- a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the Subdivider.
  - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.
  - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.
  - d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.
  - e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
  - f. Topographic data including contours at vertical intervals of not more than 2 feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.
  - g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 12% or greater, drainage ways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with Racine County, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the Town may require a survey by a Registered Land Surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross-section of the adjacent road.
  - h. Burial sites categorized under Wis. Stats. Section 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
  - i. Existing soil classifications including identification of poor, hydric soils.
  - j. Legal description of the property.
  - k. Existing zoning classifications for land in and abutting the subdivision.
  - l. Total acreage of the proposed site, Base Development Yield and Net Density calculations.
  - m. Provide graphic scale, north arrow, and date.
  - n. Conservation Easements.
  - o. Restoration zones, including association land included in native landscaping, Buffers, and drainage easements.
- (4) **Subdivision Design Features.** Provide this information on the Preliminary Plat.
- a. Layout of proposed streets, showing right-of-way widths, pedestrian

- walkways, types of improvements, street surface widths, and proposed street names.
- b. Locations and type of proposed public easements (i.e. drainage, utility, pedestrian, public access to waterways, etc.); and all Conservation Easements.
  - c. Layout of proposed blocks and lots within the plat.
  - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
  - e. Minimum front, side and rear yard building setback lines for all lots.
  - f. Indication of the use of any lot.
  - g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.
  - h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other storm water facilities within the plat and to a distance of 100 feet beyond the site.
  - i. Common Open Space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
  - j. Proposed preservation, if any, of historical buildings and structures.
  - k. Development Envelopes showing areas for grading, lawns, pavement and buildings.
  - l. Stewardship Plan and management plan for restoration and long-term management of the Common Open Space areas.
- (5) **Preliminary Construction Plans.** Provide information on one or more sheets.
- a. Plan and Profile. Proposed street centerline profile grades, showing the existing and proposed profile grade lines.
  - b. Grading and Erosion Control Plan. A plan showing existing and proposed grades, drainage patterns, and storm water facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four (4) inches or more measured twelve (12) inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.
  - c. Provisions for sewage disposal, water supply, storm water management, and flood control.
- (6) **Easements.** No plat or subdivision shall be accepted by the Town unless the same provides for an easement across the rear twelve (12) feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making in all an easement of twenty-four (24) feet. The easement shall be established for the installation of all

public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such non-abutting lot shall be subject to an easement of at least twelve (12) feet in width for the same purposes as hereinbefore set forth. In the event compliance with this requirement is not practicable in the opinion of the Town Board, the Town Board may waive the requirements herein provided. The Subdivider shall dedicate such other lands or grant such other easements as the Town Board determines to be reasonably required in accord with the Wisconsin Statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.

(g) **Development Agreement.** Prior to or as a condition of the acceptance of the subdivision final plat or a final certified survey map that includes public improvements, the Subdivider shall enter into a Development Agreement with the Town that includes, but is not limited to, the following terms and conditions:

- (1) The roads and highways and appurtenances thereto shall be constructed at the expense of Subdivider in accordance with the provisions of Section 14-2-4 and 14-3-4(c)(5) of the Code of Ordinances of the Town of Caledonia which are in effect at the time of such construction.
- (2) In such cases where the Subdivider shall own the land adjoining the roads and highways, the Subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the Town Board.
- (3) Sanitary and water mains and laterals, and storm water drainage facilities shall be installed by Subdivider prior to submission of the roads to the Town for acceptance.
- (4) The Subdivider shall agree to indemnify and hold the Town and its agents harmless from and against claims related to the performance of work at or for the construction site.
- (5) The Subdivider's principals shall be personally responsible for reimbursement of costs to the Town in the event the Subdivider does not proceed with the actual installation of the subdivision improvements.
- (6) The Subdivider shall be responsible for payment of the Town's costs, disbursements and attorney's fees in the event the Town brings legal action to enforce compliance with the agreement and a final determination is made in favor of the Town.
- (7) The Subdivider shall grant its permission and make application, in advance, for the vacation of the plat in accordance with Chapter 236 of the Wisconsin Statutes in the event improvements to the subdivision, for which the Subdivider is responsible, are not completed within five years of final plat approval.
- (8) The terms and conditions of the agreement shall extend to the heirs, administrators, successors in title and assigns of the Subdivider, including personal liability. However, Subdivider may not assign its rights, duties and responsibilities under this Agreement to any other third party without first obtaining the prior written consent of the Town.
- (9) The Subdivider shall convey all necessary easements, including a Conservation Easement as required under sec. 14-3-5 of the Town's Code of Ordinances.

- (10) The Subdivider shall install at its expense such other improvements and facilities specified by the Town Board which are required in the subdivision to properly service such subdivision with sewer, water, drainage and public access to, within and from such subdivision.
  - (11) Other terms that the Town and Subdivider shall deem appropriate.
- (h) **Final Plat Review and Approval Procedures.** A final subdivision plat shall be filed in accordance with the following:
- (1) **Final Plat.** The Subdivider shall prepare a final plat; a checklist; and letter of application in accordance with this Ordinance and shall file 20 copies of the plat and the application with the Engineering Department at least 21 days prior to the meeting of the Plan Commission at which action is desired. Copies of the final plat shall also be filed with the Town Attorney, the proposed Conservation Easement holder and with the Racine County Planning and Development Department in accordance with the Racine County Code of Ordinances. The owner or Subdivider shall file the final plat not later than two years after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the Subdivider and for good cause granted by the Town. The Subdivider or Subdivider's agent shall also submit at this time a current certified abstract of title or such other evidence as the Town may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statutes, the Racine County Code of Ordinances and this Ordinance. If the Final Plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.
  - (2) **Objecting Agencies.** The Subdivider or the Subdivider's agent shall submit the original plat to the Plat Review Section, Wisconsin Department of Administration, which shall forward two copies to each of the agencies authorized to object under section 236.12(2) of the Wisconsin Statutes. The department shall have the required number of copies made at the Subdivider's expense.
  - (3) **Final Construction Plans.** Simultaneously with the filing of the final plat, the owner shall file with the Engineering Department four copies of the final, approved plans and specifications of public improvements required by the Town.
  - (4) **Installation, Protection and Management Plans.** The Subdivider shall also submit a Stewardship Plan prepared by a Professional Ecological Service for areas to be protected and/or into which native vegetation will be introduced. The Town may provide information to guide the Subdivider and the Town will set minimum standards and a format for the Stewardship Plan by resolution from time-to-time. The Town shall approve the Professional Ecological Service to be used; the Town's approval shall not be unreasonably withheld. The Stewardship Plan shall be reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the Town. If the proposed easement holder does not have a qualified staff person, then the plan shall be reviewed by a qualified professional ecologist acceptable to the Town and unaffiliated with the drafter of the Stewardship Plan. The reviewer shall provide a written report and any recommended revisions to the Town Engineer at the time the Final Plat is submitted for approval. The plan shall be revised, if deemed necessary by the Town Board prior to consideration of the Final Plat. Any costs incurred for the review of the Stewardship Plan by the



Easement holder or a qualified professional ecologist shall be the responsibility of the Subdivider. The final Stewardship Plan shall be submitted to the Plan Commission, along with the written report, for its information and reference, when it reviews the Final Plat.

- (5) **Referral of Final Plat.** The Engineering Department shall provide copies of the final plat to Town department heads and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for their consideration during the review process. Prior to the referral of the final plat by the Town Engineer, final drainage plans must have received their necessary approvals.
- (6) **Town Plan Commission Review.**
  - a. The Plan Commission shall examine the final plat as to its conformance with the preliminary plat; any conditions of approval of the preliminary plat; this Ordinance; and all applicable ordinances, rules, regulations, the Stewardship Plan, for information only, and Town's land use plan elements that may affect it and shall recommend approval or rejection of the final plat to the Town Board.
  - b. The Plan Commission shall, within 30 days of the date of filing of the final plat with the Engineering Department, recommend approval or rejection of the final plat and shall transmit the final plat and application along with its recommendations to the Town Board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the final plat is approved by the Town Board. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the Subdivider and agreed to in writing by the Plan Commission.
- (7) **Town Board Review and Approval.** The Engineering Department shall provide a copy of the final plat, the recommendation of the Plan Commission, a draft of the proposed Conservation Easement and the Stewardship Plan to the Town Board for its review, consideration and possible approval. The Town Board shall, within 60 days of the date of filing the original final plat with the Engineering Department, approve, or reject such plat unless the time is extended by agreement with the Subdivider. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the final plat is approved by the Town Board. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the Subdivider. The Town Board may not inscribe its approval on the final plat unless the Engineering Department certifies on the face of the plat that the copies were forwarded to objecting agencies as required in this section, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.
  - a. The Town Board shall, when it determines to approve a final plat, give at least ten days' prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.
  - b. If the Town Board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed

approved.

- c. Recordation. After the final plat has been approved by the Town Board and required improvements either installed or a contract and sureties ensuring their installation is filed, the Engineering Department shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the Subdivider for recording with the county register of deeds, along with all Conservation Easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes, the Racine County Code of Ordinances and this Ordinance. The register of deeds cannot record the plat unless it is offered within six months from the date of the Town Board's final approval and within 24 months after the first approval.
- d. Copies. The Subdivider shall file eight copies of the recorded final plat with the Engineering Department for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files. Subdivider shall also provide a copy of the recorded final plat to the Conservation Easement holder and Town Attorney.

(i) **Final Plat Requirements.**

- (1) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of section 236.20 of the Wisconsin Statutes, with the Racine County Code of Ordinances, and this Ordinance.
- (2) Additional information. In addition to the information required by section 236.20 of the Wisconsin Statutes, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:
  - a. Exact length and bearing of the centerline of all streets.
  - b. Exact street width along the line of any obliquely intersecting street.
  - c. Exact location and description of utility and drainage easements.
  - d. Railroad rights-of-way within and abutting the plat.
  - e. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.
  - f. Restrictions relating to access control along public ways.
  - g. Setback or building lines.
  - h. Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.
  - i. The legal instruments detailing the ownership of the Common Open Space, as required in section 14-3-5.
  - j. All final plats shall meet all the surveying and monumenting requirements of section 236.15 of the Wisconsin Statutes.
  - k. State plane coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by the Town, the plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the

monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.

- l. Certificates. All final plats shall provide all the certificates required by section 236.21 of the Wisconsin Statutes. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.
  - m Recording. The final plat shall be recorded as required by Wisconsin Statutes section 236.25.
- (j) **Certified Survey Maps.** Conservation Subdivisions shall not be created by certified survey maps under section 236.34 of the Wisconsin Statutes.

#### SEC. 14-3-4 REQUIREMENTS FOR DESIGN AND IMPROVEMENTS.

- (a) **Land Suitability.** No land shall be developed which is held to be unsuitable for any proposed use if identified as environmentally sensitive. Areas identified as environmentally sensitive include, but are not limited to the following existing features:
- (1) All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or other public or private entity.
  - (2) All wetlands, as defined in NR 103.02(5) of the Wisconsin Administrative Code, including buffers as required under NR 151 of the Wisconsin Administrative Code and Sec. 14-3-4(c)(2)(d).
  - (3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources.
  - (4) All areas having slopes greater than 20 percent and slopes between 12% and 20% in environmentally significant areas as determined by the Town Board upon recommendation of the Plan Commission and Town Engineer.
  - (5) Areas that are known to provide habitat for rare, threatened or endangered species.
  - (6) Burial sites and Indian mounds.
  - (7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25 foot Buffer from the edge of the drainageway shall be included.

Areas determined to be environmentally sensitive may be included as Common Open Space in a Conservation Subdivision but shall not be included in the development yield analysis in section 14-3-3(b)(2) or in the Net Density calculations in section 14-3-2(n) unless otherwise included or excluded in those sections. These lands shall be identified as an outlot or other designation that indicates the land is not available for development.

- (b) **Development Yield.** The number of residential units for a parcel shall be determined in accordance with the following:
- (1) The Base Development Yield shall be established as provided in sections 14-3-3(b)(2) and 14-3-3(d), excluding adjustments for any development yield bonus under subsection (2) below, and as defined in section 14-3-2(a).
  - (2) **Development Yield Bonus.** The Base Development Yield may, at the discretion of the Town, be increased by the addition of a development yield bonus or bonuses if the development complies with one or more of the following standards. Each standard provides a Development Yield Bonus of up to 5% of the Base

Development Yield unless otherwise indicated. The maximum bonus permitted is 20%. The new development yield, including the bonus, shall be determined by conventional rounding principles such that if the development yield bonus results in a number of .5 or greater, this number is rounded to the next highest whole number. The standards are as follows:

- a. Up to a five percent (5%) bonus for providing *public* trail connection by linking new trails within the development to existing local or regional *public* recreational trails, parks, primary or secondary environmental corridors, or other recreational facilities acceptable to the Town Board.
- b. Providing for connection of internal open spaces, whenever possible, and connection with existing or potential open space lands or adjoining parcels outside of the development.
- c. Providing affordable housing, to include a minimum of 15 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development and as applicable to the Town's demographics. Affordable housing refers to the value equal to 80% of the median value of houses in the local area.
- d. Providing for more than 75% of the lots within a neighborhood to abut significant open space on at least one side. A bonus under this subsection shall be prorated on the basis for 1% of each 5% over the minimum as follows:

- 80% = 1% bonus
- 85% = 2% bonus
- 90% = 3% bonus
- 95% = 4% bonus
- 100% = 5% bonus

- e. Preserving in its entirety any portion of a primary or secondary environmental corridor which is within the subdivision.
- f. Preservation of additional Common Open Space in areas not served by public sanitary sewer and located outside of the approved sewer service area. A bonus under this subsection shall be prorated on the basis of the following:

- 65% = 2%
- 70% = 3%
- 75% = 4%
- 80% = 5%

- g. Preservation of additional Common Open Space within the approved sewer service area. A bonus under this subsection shall be prorated on the basis of the following:

- 45% = 2%
- 50% = 3%
- 55% = 4%
- 60% = 5%



Resource Conservation District) and shall require a conditional use permit (C-2) per the Racine County Code of Ordinances and shall comply with the Town's Land Use Plan. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-2 development. Areas not served by sewer shall have a maximum Net Density of one dwelling unit per five acres unless the Subdivision receives a bonus under subsection 14-3-4(b)(2).

- c. All areas shall comply with the following:
  - i. The size, shape and orientation of lots shall be appropriate for the location of the Subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.
    - a) **Shape.** Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
    - b) **Flag Lots.** Flag Lots shall not be approved.
  - ii. The ratio of the length of the entire side of a residential lot to the frontage on the public street or at the setback line, whichever is greater, of a lot shall not be greater than 2.5:1.
  - iii. Side lot lines, where practical, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
  - iv. Every lot shall front or abut on a public street and obtain access by such public street or other officially approved means of access.
  - v. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.
  - vi. Lots shall be configured to minimize the amount of impervious surface including road length and width required for the subdivision.
  - vii. Development Envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.
  - viii. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate Buffers between agricultural uses and residential structures.

- ix. Lots shall be adjacent to or around one or more of the following:
  - a) A central green or square; and/or
  - b) A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.
- x. Perimeter fences shall not be allowed within lots. Perimeter fences are those fences that enclose or surround a portion or all of a lot. Subdivider shall include this restriction in the deed restrictions for the Subdivision. Non-perimeter, decorative fences in the front yard that are not higher than four (4) feet, fences for equestrian livestock, and fences surrounding in-ground pools as required by Section 15-1-20.05 of the Town's Code of Ordinances may be approved by the Town Board. This section shall not be deemed to prohibit non-perimeter, decorative entranceways for driveways to individual lots. All fences must comply with the requirements of Chapter 5 of Title 15 of the Town's Code of Ordinances to the extent applicable. The purpose of this section is to avoid the interruption of open space views found in Conservation Subdivisions.
- xi. To the extent possible, Development Envelopes should be screened from peripheral public roads or other visually prominent areas and should not be located on ridges or hilltops.
- xii. A Buffer of native vegetation shall be maintained around open water areas pursuant to subsection d. below, unless a specific common beach or grassed area is identified.
- xiii. Storm water management.
  - a) Minimize the use of curb and gutter and maximize the use of open swales.
  - b) Roof down spouts should drain to porous surfaces, rain barrels, or rain gardens
  - c) Peak discharges during the 2 and 10 year storm events shall be no more than the corresponding discharges under predeveloped conditions.
  - d) The development should have storm water management practices and facilities designed to capture at least 80% of the post-development sediment load on an annual basis.
  - e) Landscape plantings should be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.
  - f) Preserve natural open drainage systems and incorporate them into the storm water management system of the subdivision where permitted by the Department of Natural Resources guidelines.
- d. **Shoreland Lots.**
  - i. Lots contained within Shoreland areas shall be subject to the setback requirements as provided for in NR 151.12(5)(d) of the

Wisconsin Administrative Code. All Buffers shall comply with NR151 and NR 216 of the Wisconsin Administrative Code and this ordinance and if these regulations differ, the most restrictive requirements shall govern. Impervious surfaces shall not be placed within the setback areas unless specifically allowed by the Town Board upon recommendation of the Town Engineer and Plan Commission.

- ii. A plan must be implemented by the Subdivider to preserve or establish a vegetative Buffer that covers at least 70% or greater of the setback area that is nearest to the water pursuant to NR 151.12(5)(d)(3)(b). The plan shall contain the following information:
  - a) location of vegetative Buffer;
  - b) number, type and size of proposed native vegetation to be installed or identification of existing plant/materials to be maintained;
  - c) installation schedule/deadline;
  - d) erosion control measures;
  - e) maintenance plan to replace dead/diseased vegetation;
  - f) before and later supplemented to include after photographs of vegetative Buffer area; and
  - g) description of how the project is to be implemented.
- iii. The plan shall be included in the Stewardship Plan if the Shoreland area is within Common Open Space or if the Shoreland area is within a lot, then the plan shall be included in the Homeowners Association's covenants, conditions and restrictions in perpetuity.
- e. **Lighting.** Lighting design shall take into account surrounding properties and shall minimize the visual impact of the artificial lighting on those properties to the extent possible to maintain the rural night sky. All lighting on any properties within the Conservation Subdivision shall comply with applicable Town and County ordinances. All lighting shall be shielded lighting and full cut-off luminary.

(3) **Residential Dwellings Siting Standards**

- a. Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- b. Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Department of Natural Resources.
- c. Whenever possible, Common Open Space shall connect with existing or potential Common Open Space lands on adjoining parcels and local or regional recreational trails, public parks, or public open spaces.
- d. Residential dwellings should be sited to achieve the following goals, to the extent practicable.
  - i. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural



- practices.
- ii. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
- iii. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
- iv. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
- v. Protect archaeological sites and existing historic buildings and/or structures or incorporate them through adaptive reuse.
- e. Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.

(4) **Open Space Design**

- a. Common Open Space. The minimum Common Open Space required shall be owned and managed under one of the alternatives listed in section 14-3-5, as approved by the Town. The uses within the Common Open Space shall be accessible, as specified in the Conservation Easement and Stewardship Plan, to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required Common Open Space shall be restricted from further land divisions and development, as specified in Section 5.
- b. Common Open Space shall be designated as part of the development. The minimum required Common Open Space is:
  - i. 60% of the gross acreage in unsewered areas; or
  - ii. 40% of the gross acreage in sewerred areas.
- c. Common Open Space Conservation Ranking (in order of significance). This subsection identifies areas which the Town believes should be preserved in order of significance. Some of these areas may otherwise require protection under other sections of this ordinance. The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and/or provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
  - i. First priority will be given to intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, agricultural lands, Woodlands, significant historic and archaeological properties, and slopes of 12% or greater.
  - ii. Second priority will be given to areas providing some plant and wildlife habitat and Common Open Space values.
  - iii. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of Common Open Space.
- d. The following areas or structures may be located within the Common Open Space area and shall be counted toward the overall Common Open Space percentage required:
  - i. Parking areas for access to and use of the Common Open Space

- developed at a scale limited to the potential users of the Common Open Space.
- ii. Privately-held buildings or structures provided they are accessory to the use of the Common Open Space.
  - iii. Shared septic systems and shared potable water systems located on Common Open Space.
- e. Road rights-of-way shall not be counted towards the required minimum Common Open Space, except that Common Open Space within landscaped cul-de-sac islands and medians of boulevards that are located within the rights-of-way may be counted upon recommendation by the Plan Commission and approval of the Town Board.
  - f. Open spaces less than 25 feet in width or 100 feet in length shall not be accepted toward meeting the required minimum Common Open Space except for Buffer strips along streets, landscaped cul-de-sac islands, and the medians of boulevards.
  - g. That portion of Common Open Space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
  - h. Accessible Common Open Space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.
  - i. A pathway system connecting Common Open Space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.
  - j. The design shall provide for the connection of internal open spaces, whenever possible, and connection with existing or potential open space lands or adjoining parcels outside of the development.
  - k. **Buffers Required.** The following distance Buffers are required within Common Open Space in rural Subdivisions outside of the approved sanitary sewer service area unless the Town Board upon recommendation of the Plan Commission determines otherwise:
    - i. From existing perimeter arterial streets a minimum of 100 feet.
    - ii. From all other existing perimeter streets a minimum of 50 feet.
    - iii. From parcel boundaries a minimum of 50 feet.
    - iv. From cropland or pastureland a minimum of 50 feet.
    - v. From barnyards and buildings, housing and livestock a minimum of 200 feet.
    - vi. From dwellings in other Subdivisions a minimum of 200 feet.
    - vii. From floodplains a minimum of 75 feet.
    - viii. From wetlands as required under Sec. 14-3-4(c)(2)(d) and NR 151 of the Wisconsin Administrative Code.
    - viii. From active recreations areas and trails a minimum of 50 feet.Landscaping of mixed trees and shrubs should be required in Buffer areas, where necessary, to screen new housing, to screen existing incompatible

development, to preserve scenic views, or to otherwise enhance the rural landscape as seen from existing perimeter roads and from within the Subdivision.

1. **Common Open Space in Condominium Plats.** In Condominium plats where the Subdivider proposes a Condominium in which the unit will encompass only the Building Pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum Common Open Space.
  - i. **Purpose.** The purpose of this section is to not include side, back and front yards as Common Open Space because inclusion of these areas does not fulfill the definitional requirement of Common Open Space or meet the purposes of this ordinance.
  - ii. **Definitions.** For the purposes of this subsection, the following shall mean:
    - a) **Building Pod.** The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.
    - b) **Building Envelope.** The area of a lot including a Building Pod in addition to setbacks of seven and one-half (7.5) feet for each side of the Building Pod and twenty-five (25) feet each for the front and back yards.
  - iii. **Calculation.** If the Subdivider is proposing a Condominium in which the lot will encompass only the Building Pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum Common Open Space requirements:
    - a) If the actual square footage of the Building Pod and Building Envelope are not known, subtract Four Thousand (4,000) square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in Common Open Space.
    - b) If the actual square footage of the Building Pod is known, then perform the following: (1) Calculate the total area of setbacks around the Building Pod of seven and one-half (7.5) feet for each side yard and twenty-five (25) feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each unit for the total amount of square feet not to be included in Common Open Space.

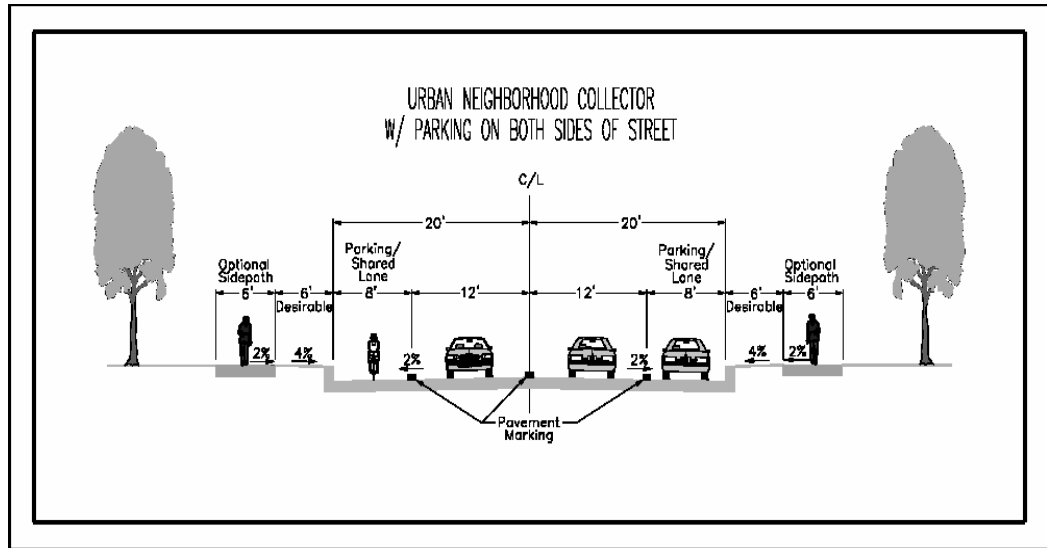
(5) **Street Standards**

- a. **Design and Location.** The street design standards have been developed based on the functional classification of each street and in accordance with the American Association of State Highway and Transportation Officials

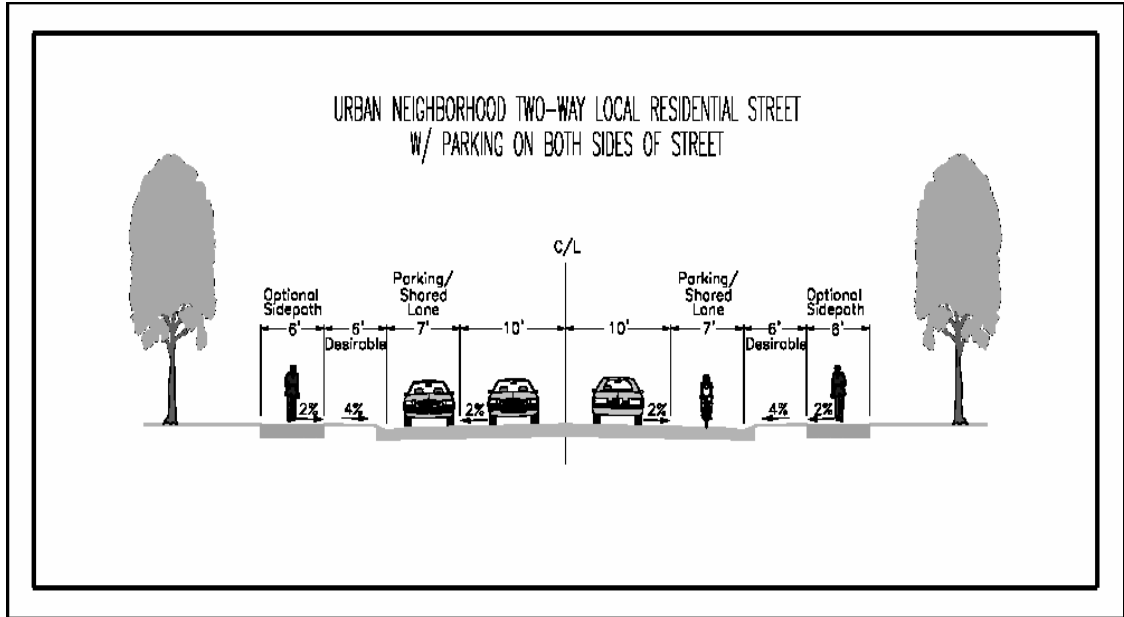
guidelines. The Village shall have the authority to designate the street design and location for the streets within the Subdivision. Minimum street widths are provided for urban and country conditions, as well as various on-street parking configurations. Subdivider shall consult neighborhood plans and the land use plan for planned street locations. Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns. Gateway Boulevards are required at all entrances to the Subdivision unless otherwise approved by the Village Board. All curb and gutter shall be designed with a width of thirty inches (30”), whether mountable or vertical in design.

- b. **Street Widths.** Street widths shall meet the requirements established below. Where streets will connect with streets meeting differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection. The Village may require the inclusion of pedestrian walkways (e.g., trails, sidepaths) and bicycle lanes in the street right-of-way or other street widths as the Village deems applicable to the Subdivision.
- c. **Definitions.** For purposes of this section, the following shall mean:
  - i. **Cross Section.** The portion of the street that is paved which includes Travel Lanes and may include parking lanes. In urban neighborhoods, the Cross Section is from face of curb to face of curb. In country neighborhoods, the Cross Section is the paved area of the street.
  - ii. **Travel Lane.** The paved portion of the street designed for movement of vehicles exclusive of parking lanes, shoulders, whether paved or gravel, and curb and gutter.
  - iii. **Urban Neighborhood.** Areas where water and sanitary sewer services are provided and curb and gutter is installed for storm water drainage.
  - iv. **Country Neighborhood.** Areas where water and sanitary sewer services are not provided and ditches and/or swales are utilized for storm water drainage.
  - v. **Gateway Boulevard.** A street with a heavily landscaped median at the entrance to the Subdivision.
  - vi. **Street Boulevard.** A street with a heavily landscaped median located within the Subdivision on a Local Street.
- d. **Compliance with Minimum Standards for Construction of Streets and Highways.** Except as indicated under this subsection d., no plat of any Subdivision shall be accepted by the Village of Caledonia pursuant to Chapter 236 of the Wisconsin Statutes unless all streets and highways, or parts thereof shown thereon, comply with the provisions of this Section and Section 14-2-4 of this Code of Ordinances of the Village of Caledonia which are in effect at the time such streets are constructed and that are not in conflict, contradictory, or inconsistent with the provisions of this Chapter.

- i. **Urban Neighborhood Collector.** The urban collector will provide access to local streets within the residential neighborhood. As such, its design incorporates a higher traffic volume than that of the local street. For the purpose and benefits of street design, 12-foot Travel Lanes are required for urban collectors. Pavement markings are required on collector streets.
  - a) **Parking on Both Sides of Street.** A 40-foot minimum Cross Section from face of curb to face of curb is required to accommodate on-street parking on both sides of the street: two 12-foot Travel Lanes and two 8-foot parking lanes. The 40-foot minimum urban collector is shown below:

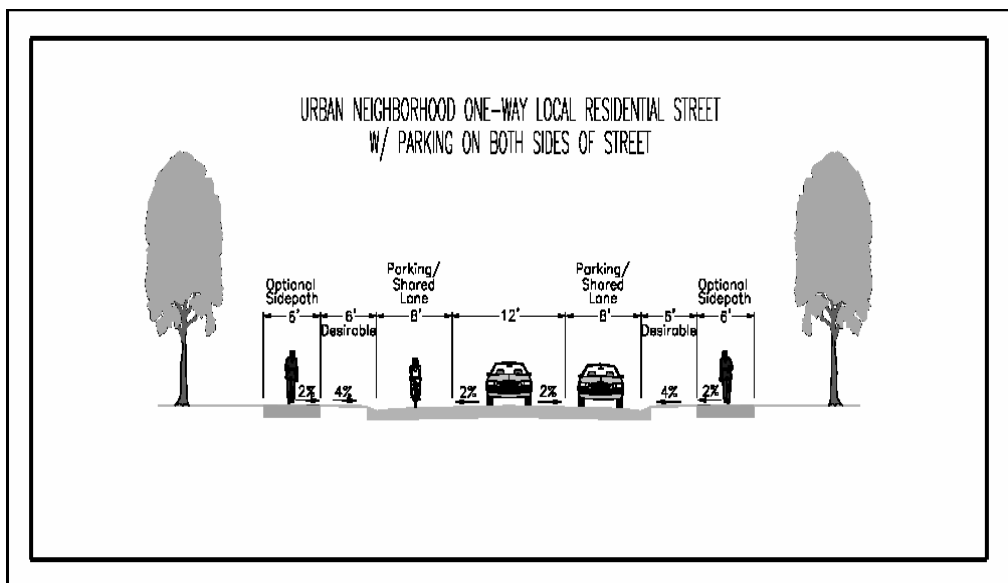


- ii. **Urban Neighborhood Two-Way Local Residential Street.** The urban local residential street will provide access to houses within the Urban Neighborhoods. Its design is based on low traffic volumes and low travel speeds. For the purposes and benefit of street design, two Travel Lanes are required, at a minimum width of 10-feet each, even where parking occurs on both sides of the street. There shall also be 7 to 10-foot parking lanes.
  - a) **Parking on Both Sides of Street.** To provide parking on both sides of the urban two-way local street, a 34-foot minimum Cross Section from face of curb to face of curb is required: two 10-foot Travel Lanes and two 7-foot parking lanes. The 34-foot two-way local street is shown below:

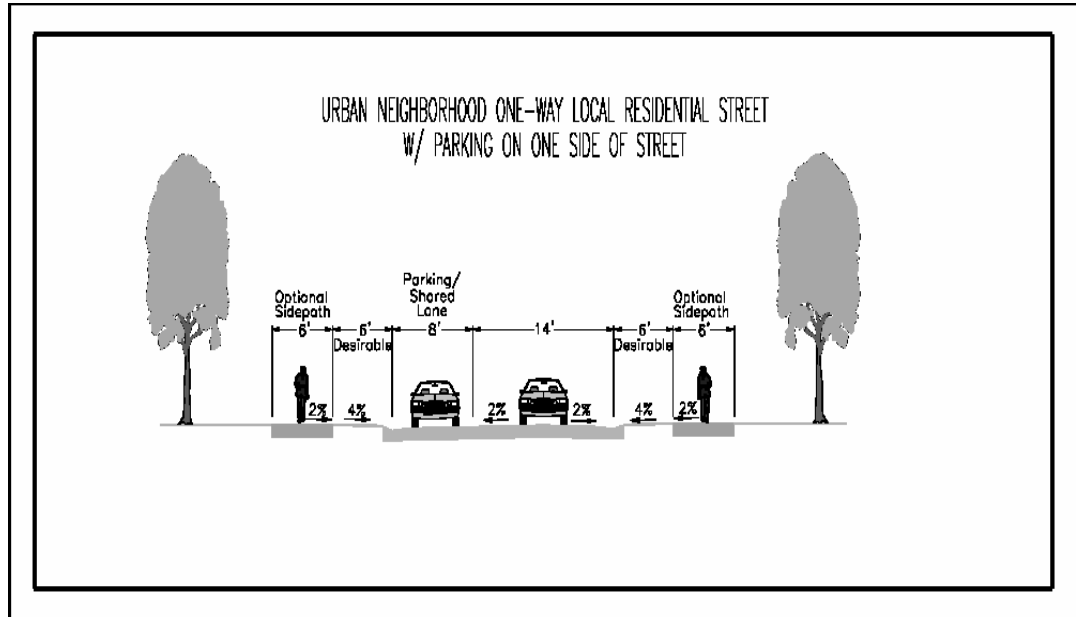


iii. **Urban Neighborhoods One-Way Local Residential Street.** The urban local one-way residential street will provide access to houses within the Urban Neighborhood. Its design is based on low traffic volumes and low travel speeds. The minimum urban one-way street Cross Sections are shown below:

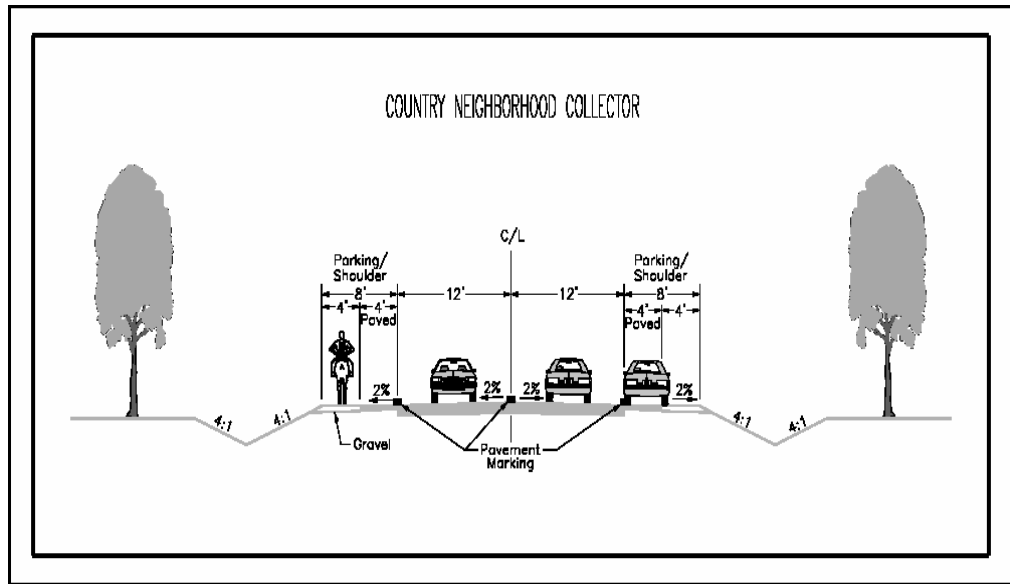
a) **Parking on Both Sides of Street.** A 28-foot minimum Cross Section from face of curb to face of curb is required to accommodate parking on both sides of the street: one 12-foot Travel Lane and two 8-foot parking lanes. The 28-foot one-way local residential street is shown below:



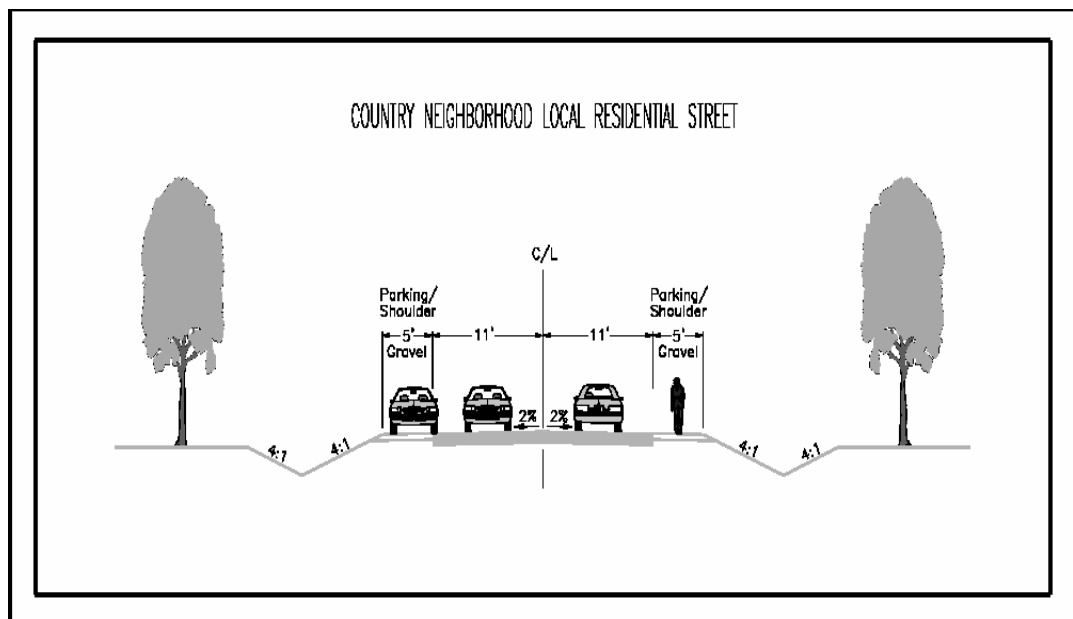
- b) **Parking on One Side of Street.** A 22-foot minimum Cross-Section from face of curb to face of curb is required to accommodate parking on one side of the street: one 14-foot Travel Lane and one 8-foot parking lane. Parking restrictions may be needed at intersections to accommodate emergency vehicles on the 22-foot streets. The 22-foot one-way local residential street is shown below:



- iv. **Country Neighborhoods Collector.** The country collector will provide access to local streets within the Country Neighborhoods. As such, its design incorporates a higher traffic volume than that of the local street and can accommodate pedestrian and bicycle traffic unless otherwise provided for. Country collectors shall have a minimum paved surface of 32-feet, which shall include two 12-foot Travel Lanes and 4-feet of paved shoulders on both sides. The Country Collector shall also have gravel shoulders of 4-feet wide on both sides of the street to accommodate parking. Pavement markings are required on collector streets. The 32-foot wide paved surface plus gravel shoulders for a country collector is shown below:



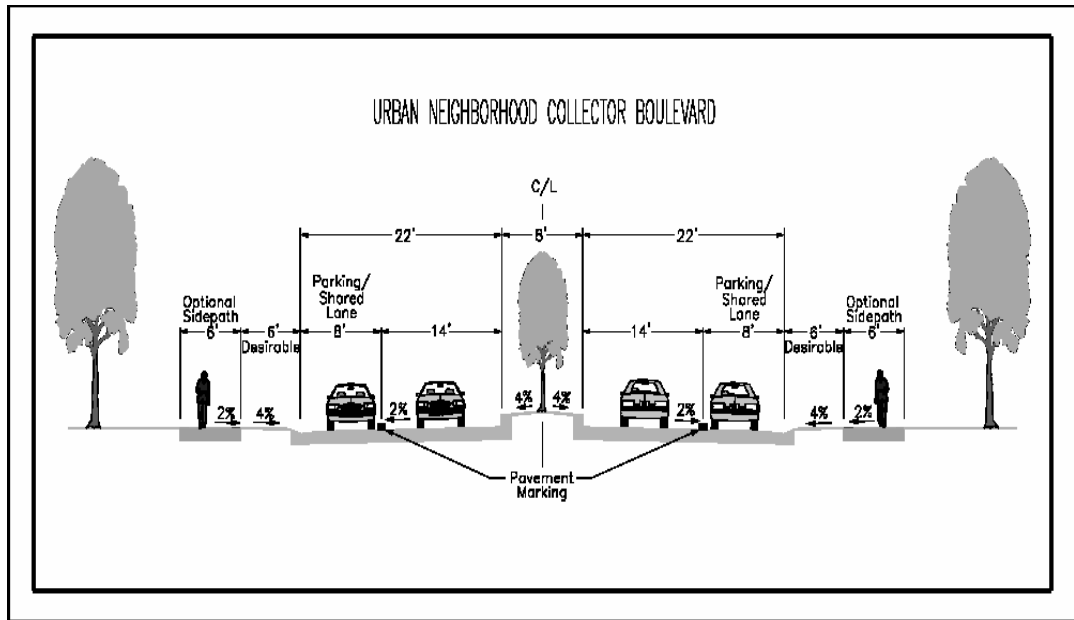
- v. **Country Neighborhoods Local Residential Street.** The country local residential street will provide access to houses within Country Neighborhoods and can accommodate pedestrian and bicycle traffic. Its design is based on low traffic volumes and low travel speeds. Country local residential streets shall have a minimum paved surface of 22-feet wide and gravel shoulders of 5-feet wide on both sides of the street to accommodate parking. The 22-foot wide paved surface plus gravel shoulders for a country local residential street is shown below:



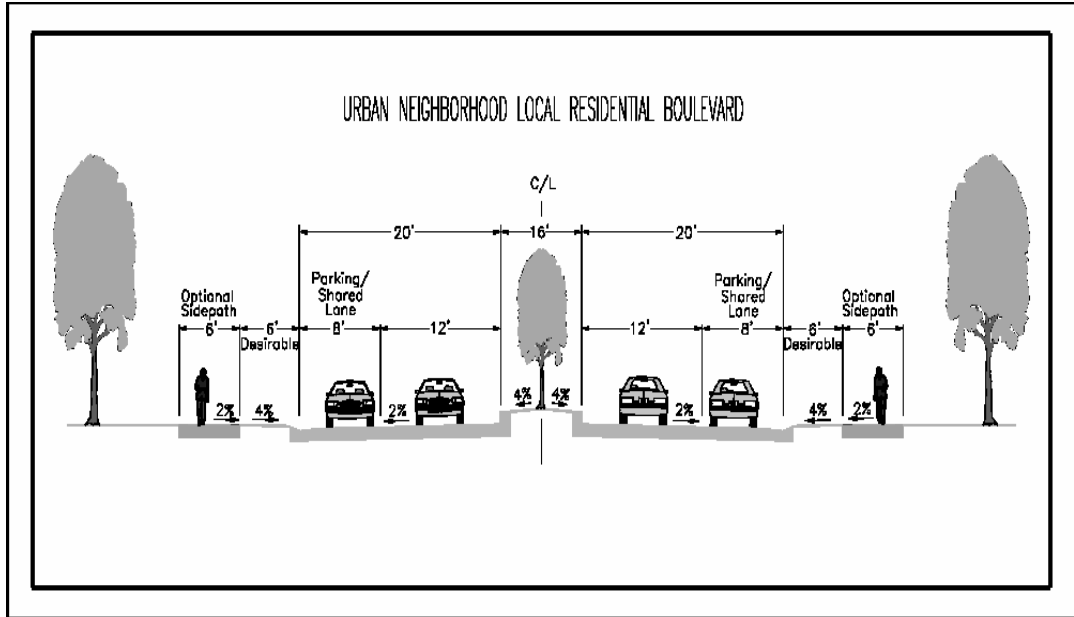


vi. **Boulevard Streets.** The boulevard street shall be a street with a heavily landscaped central median that provides an aesthetic amenity to the Subdivision. Salt resistant trees and plant species from the Street Tree List shall be utilized. The boulevard street design standards are described below:

a) **Urban Neighborhood Collector Boulevard.** The minimum Cross Section on both sides of the median for an Urban Neighborhood Collector Boulevard shall be 22 feet from face of curb to face of curb: 14-foot Travel Lanes and 8-foot parking lanes. The landscaped median shall be a minimum of 8-feet with a vertical curb. Pavement markings are required on collector streets. Median breaks shall be designated by the Village Engineer. The minimum Urban Neighborhood Collector Boulevard is shown below:

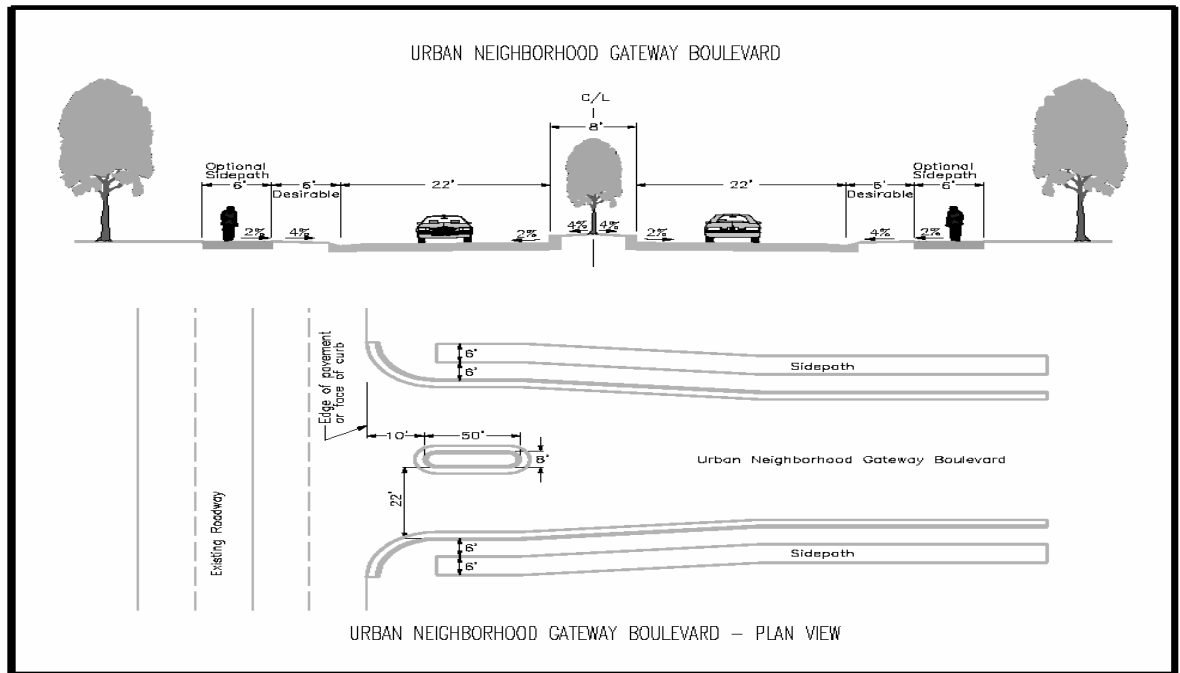


b) **Urban Neighborhood Local Residential Boulevard.** The minimum Cross Section on both sides of the median for an Urban Neighborhood Residential Boulevard shall be 20- feet from face of curb to face of curb: 12-foot travel lanes and 8-foot parking lanes. The landscaped median shall be a minimum of 16-feet with a vertical curb. The minimum Urban Neighborhood Local Residential Boulevard is shown below:

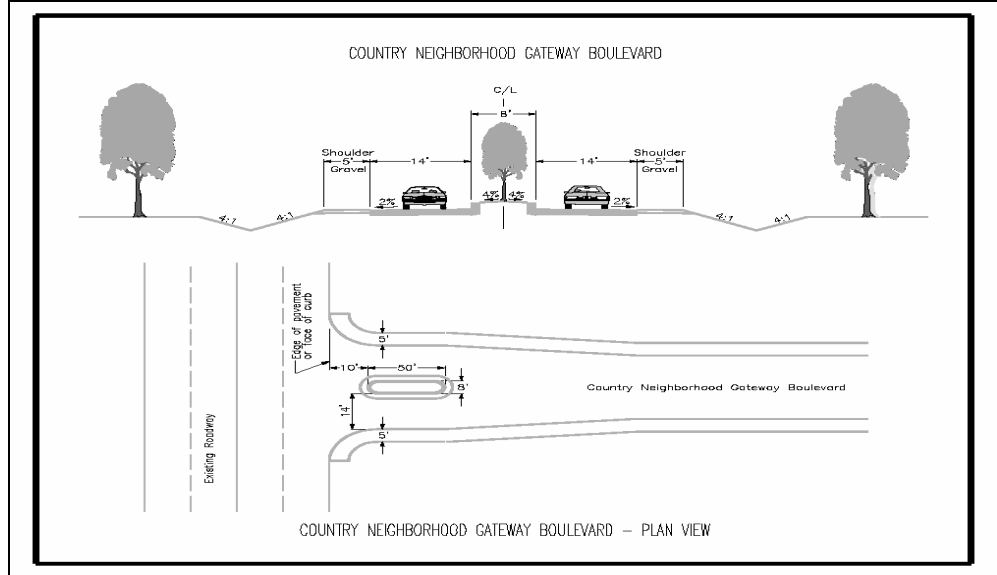


c) **Gateway Boulevard.** The Gateway Boulevard contains a special landscaped median that contains significant visual features, built or natural. These features may include trees, fences, ornamental landscapes, unique structures, or public art. The minimum width of the median shall be 8 feet with a vertical curb. The minimum length of the median shall be 50-feet. The median shall be set back ten (10') feet from the edge of the face of curb or pavement of the intersecting street to allow visual access at the intersection. No lots/units shall abut the Gateway Boulevard. The minimum Cross Sections are shown below:

(i) **Urban Neighborhood Gateway Boulevard.** The minimum Cross Section on both sides of the median for an Urban Neighborhood Gateway Boulevard shall be 22-feet from face of curb to face of curb with no parking. The minimum Urban Neighborhood Gateway Boulevard is shown below:

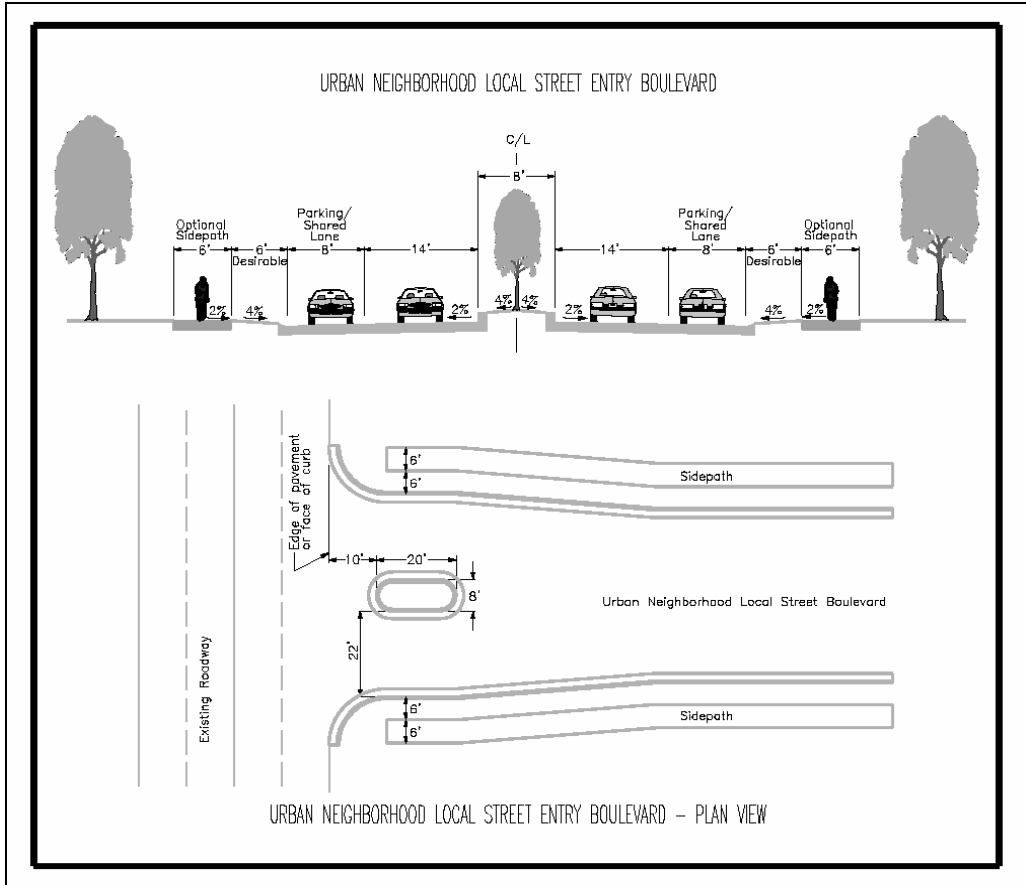


- (ii) **Country Neighborhood Gateway Boulevard.** The minimum Cross Section on both sides of the median for a Country Neighborhood Gateway Boulevard shall have a minimum paved surface of 14-foot wide and gravel shoulders of 5-foot wide on the outside of the street with no parking. The minimum Country Neighborhood Gateway Boulevard is shown below:

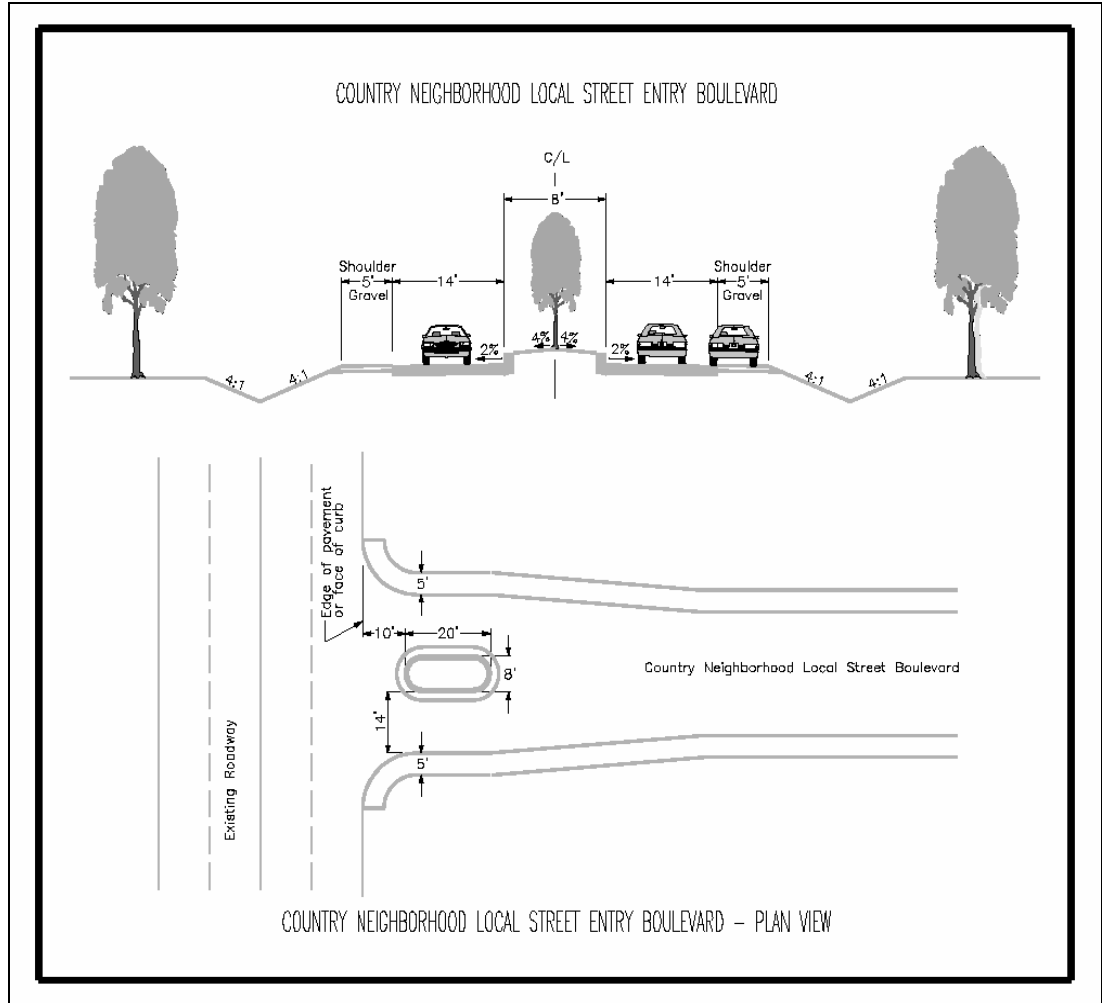


(d) **Local Street Entry Boulevard.** The Local Street Entry Boulevard contains significant landscaping that provides an aesthetic amenity to the median. These features may include trees and continuous hedges. The minimum width of the median shall be 8-feet with vertical curb. The minimum length of the median shall be 20-feet. The median shall be set back 10-feet from the edge of the face of curb or pavement of the intersection of the streets to allow visual access at the median. If a local street boulevard is desired for the entire length of the street, the design for the Urban Neighborhood Collector Boulevard shall be used. The minimum Cross Sections are shown below:

(i) **Urban Neighborhood Local Street Entry Boulevard.** The minimum Cross Section on both sides of the median for an Urban Neighborhood Local Street Entry Boulevard shall be a 22-foot minimum Cross-Section from face of curb to face of curb to accommodate parking on one side of the street: one 14-foot Travel Lane and one 8-foot parking lane. Parking restrictions may be needed at intersections to accommodate emergency and service vehicles on the 22-foot streets. The minimum Urban Neighborhood Local Entry Boulevard is shown below:

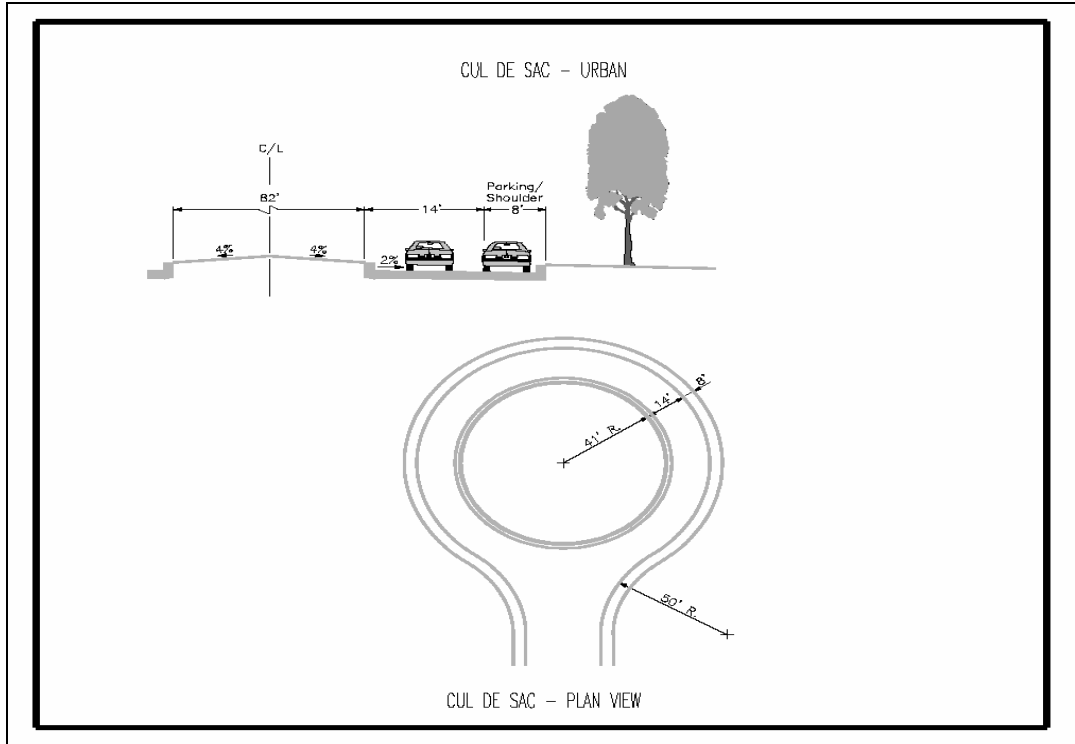


- (ii) **Country Neighborhood Local Street Entry Boulevard.** The minimum Country Neighborhood Local Street Entry Boulevard shall have a minimum paved surface of 14-feet wide on both sides of the median and gravel shoulders of 5-feet wide on the outside of the street to allow parking. The minimum Country Neighborhood Local Street Entry Boulevard is shown below:

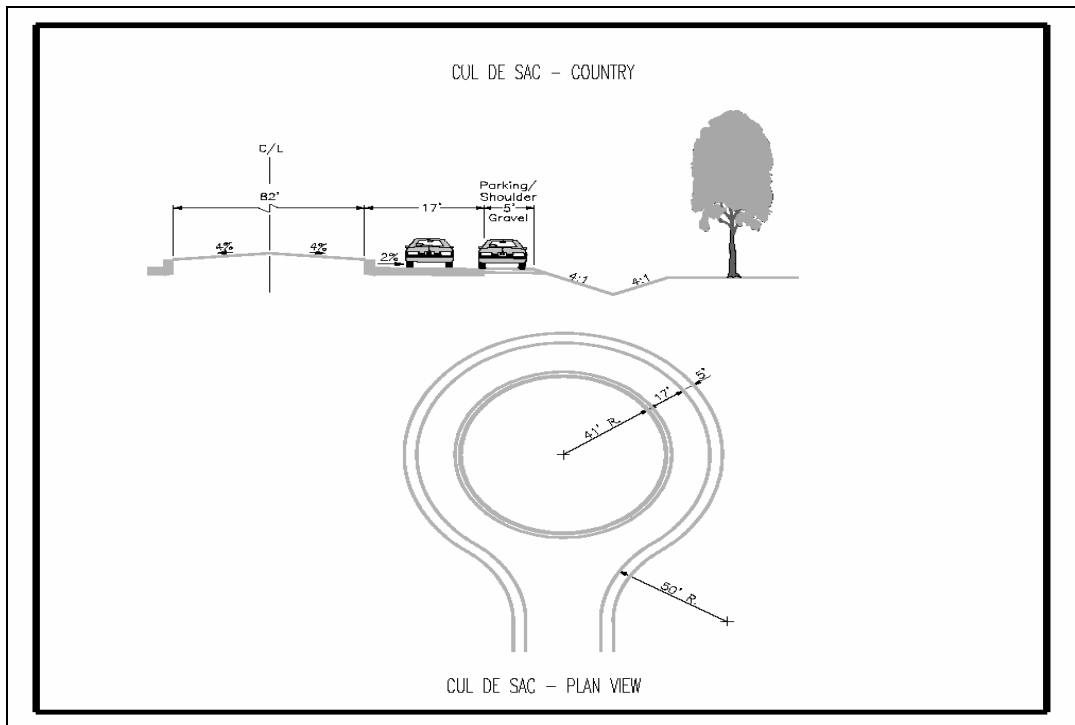


vii. **Cul de sac.**

- (a) **Urban.** The minimum Cross Section for a one-way cul de sac or circle drive with an island shall be the same as an Urban Neighborhood One-Way Local Residential Street with Parking on One Side of the Street.

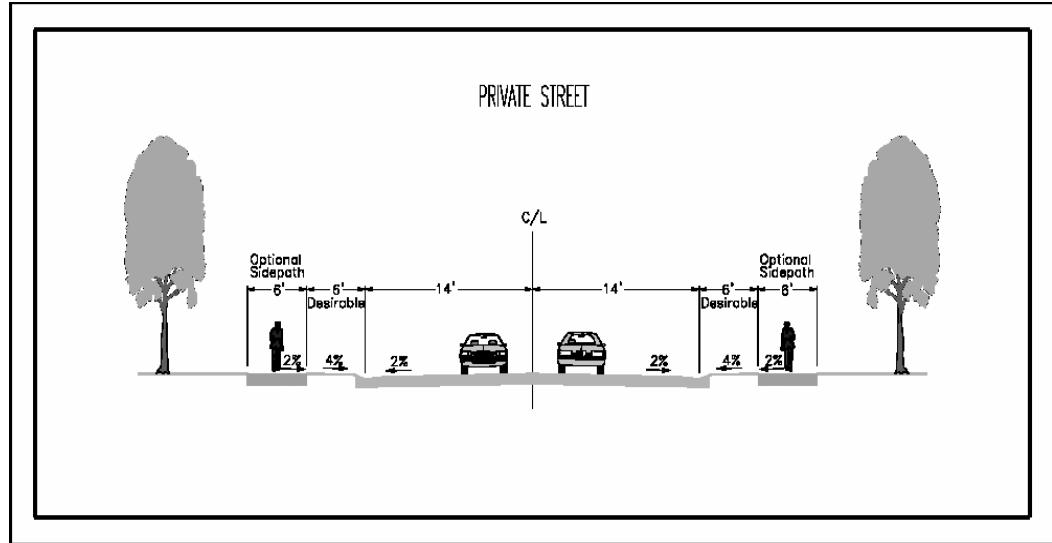


- (b) **Country.** The minimum Cross Section for a one-way cul de sac or circle drive with an island for a Country Neighborhood Local Residential Street shall be a minimum paved surface of 17-feet and 5-feet of gravel shoulder.



- e. **Design Standards Relating to Private Streets.**
- i. **Definition.** For the purposes of this section, a “Private Street” shall mean a paved street constructed according to the standards listed hereinafter and Section 14-2-4 of this Code of Ordinances.
  - ii. **When Allowed.** A Private Street may be approved by the Town Board in a traditional multi-family residential Condominium that is self-contained and designed to deter through traffic. The owners of residential units within the Condominium shall be responsible for the Private Street including the maintenance, repair and reconstruction of the Private Street. A Private Street shall not be approved in a single-family residential Subdivision or Condominium.
  - iii. **Standards.** The following standards shall apply to Private Streets in the Town of Caledonia:
    - a. **Units.** A Private Street shall support at least three residential units.
    - b. **Sewer and Water.** A Private Street shall only be allowed within the sewer service area and any residential units shall be served by public sanitary sewer and water services. The sanitary sewer and water facilities shall be owned by the applicable sanitary or utility district with easement agreements for access for construction, maintenance, and repairs.
    - c. **Street Construction.** A Private Street shall have a 28-foot minimum paved cross section from face of curb to face of curb containing two 14-foot Travel Lanes of pavement. The street shall be constructed to comply with the street standards set forth in Title 14, Chapters 2 and 3 and shall contain curb and gutter. Cul-de-sacs shall be constructed pursuant to Title 14, Chapter 2.





- d. **Setbacks.** There shall be a 25' minimum setback from the back of curb on each side of the Private Street to all structures, excluding mailboxes.
- e. **Storm Sewer.** A Private Street shall have storm sewer facilities. Drainage shall be designed in such a way as to produce a zero net increase of run-off for various storm events and shall be certified by the engineer who designs the project.
- f. **Accessibility.** A Private Street shall be accessible to all of the usual vehicles, such as solid waste removal vehicles, emergency vehicles and those delivery trucks or school buses as may need to access the Private Street. Written approval of the proposed Private Street shall be obtained from emergency service units, such as Fire and Police Departments, a copy of which shall be kept on file in the Town Clerk's office. Any act, omission, condition or thing that makes the Private Street inaccessible is hereby declared a public nuisance and shall be abated according to Sec. 11-6-6 of the Town's Code of Ordinances, except that in the event of an emergency, the Chief of Police or the Chief of the Fire Department may order the summary abatement of the nuisance without recommendation to the Town Chairperson.
- g. **Unit Owners Association.** As a condition of a Private Street approval, a unit owners association shall be established pursuant to Wisconsin laws composed of the residential unit owners on the Private Street which shall have the power and authority to impose and enforce a

maintenance lien pursuant to Section 779.70, Wis. Stats. Such unit owners association shall not be dissolved without prior Town approval.

- h. **Covenants.** The Subdivider shall prepare and obtain Town approval of the restrictive covenants. The covenants shall specify and disclose the following: (i) that the street is private; (ii) that parking restrictions on the Private Street are sufficient to maintain accessibility by emergency vehicles as determined by the Town; (iii) provide that the Town may enforce posted parking restrictions without a complaint and may tow abandoned and illegally parked vehicles pursuant to Town ordinance; (iv) that the unit owners shall control and be responsible for all street maintenance, repair, and reconstruction; (v) every entrance to a Private Street shall be posted to provide notice that the street is private; (vi) parking restrictions shall be posted at intervals determined by the Town Engineer; and (vii) the ability of the unit owners association to assess the unit owners for nonpayment of such costs related to the Private Street. The covenants shall be recorded with the Register of Deeds of Racine County and a copy shall be on file in the Town Clerk's office. The covenants shall not be amended without the Town's approval.
- i. **Plans.** A snow storage plan, snow plowing plan, street maintenance plan, and a waste management plan if privately contracted, shall be submitted for approval by the Town Engineer prior to approval of the Private Street. The unit owners and the unit owners association are responsible for implementation of the plans and shall comply with such plans. Noncompliance with any plan is hereby declared a public nuisance and shall be abated according to Sec. 11-6-6 of the Town's Code of Ordinances, except that in the event of an emergency, the Chief of Police or the Chief of the Fire Department may order the summary abatement of the nuisance pursuant to such section without recommendation to the Town Chairperson.
- iv. **No Town Services.** The Town shall not provide municipal services on the Private Street, except in the case of emergencies to remove obstructions on the Private Street. Any costs for services provided by the Town on the Private Street, such as snow plowing, shall be reimbursed by the unit owner association or the unit owners directly. In case of failure to pay, the Town may extend such costs and fees upon the tax roll as a special tax pursuant to Section

66.0627, Wis. Stats., or pursuant to any other applicable section of the statutes. If a Private Street is offered by the unit owners or the unit owners association for acceptance by the Town, the Town Board, in its sole discretion, may refuse to accept the Private Street as a public street.

- v. **Applicability.** All Private Streets already established in the Town prior to the adoption of this ordinance shall not be subject to its provisions unless an owner seeks to divide land bordering on such Private Street.
  
- f. **Street Access.**
  - i. **Purposes.**
    - a) To promote the general safety and welfare of the community;
    - b) To establish the principal collector and arterial traffic routes in the Town;
    - c) To reduce the proliferation of driveway entrances onto the Town's principal thoroughfares;
    - d) To protect the capability of such principal thoroughfares to conduct traffic smoothly and efficiently.
    - e) To help conserve the open rural character along certain public roads.
  
  - ii. **Definitions.**
    - a) **Arterial Street.** A public street or highway used or intended to be used primarily for fast or heavy through traffic, whose function is to convey traffic between activity centers and municipalities. Arterial streets are identified in the Regional Transportation System Plan adopted by the Southeastern Wisconsin Regional Planning Commission and as designated by the Town Board.
    - b) **Collector Street.** A public street that conducts and distributes traffic between Local Streets and Arterial Streets.
    - c) **Local Street.** A public street that is designed to carry traffic at a slow speed and provide frontage for access to private lots, and carries traffic having a destination or origin on the street itself.
  
  - iii. **Classification.** Certain streets will be designated as principal thoroughfares by written resolution of the Town Board from time to time. These principal thoroughfares may include Arterial and/or Collector Streets
  
  - iv. **Access Control.**
    - a) The capacity of a street to move traffic is related inversely to a number of factors, including the frequency of access provided to abutting properties, road width, curves, and gradients. To maintain the capacity of the Town's street

network, it is necessary to provide for the coordination and combination of access points long the major streets.

- b) Land lying along the principal thoroughfares designated by resolution of the Town Board may be divided into lots, but the frontage must be on a Local Street. This Local Street can be any Town street not designated by the Town Board as a principal thoroughfare or a street on an approved Subdivision plat. This may require the construction of a new street or other Town Board authorized means of access. Under certain conditions where there are unusual factors, the Town Board may waive this requirement and allow the creation of a lot or lots on one of the designated streets. Any request for a waiver or modification shall be accomplished through the procedure set forth in Section 14-3-1(k).

- iv. **Exceptions.** Any lot of record existing as of the date of the adoption of this ordinance shall be permitted one vehicular access point to a principal thoroughfare, notwithstanding the provisions of this ordinance, unless such lot also has frontage on a Local Street.

(6) a. **Sewage and Water Facilities for Subdivisions Located Outside Urban Service Area.**

- i. All Subdivisions located outside the boundaries of the Sanitary Sewer Service Area for the City of Racine and Environs as set forth by the Southeast Wisconsin Regional Planning Commission in the most recent edition of Community Assistance Planning Report No. 147, and approved or requested amendments thereto, (“Urban Service Area”) shall be provided with adequate sewage treatment facilities meeting the standards of the Village and the permit requirements of Racine County and the Wisconsin Department of Commerce and Department of Natural Resources.
- ii. When a private common sewage treatment and disposal unit is used, it shall be jointly owned and maintained by the lot owners of the lots serviced. The Village shall have no ownership interest in this type of sanitary sewer system. The Subdivider, or its successors and assigns, shall be responsible for all maintenance of the system and its cost, and shall bear the costs of alterations to the system necessitated by any improvements to the streets under which any of the sewer lines run. The Subdivider, or its successors and assigns, shall have the private on-site wastewater treatment system (POWTS) inspected annually or more frequently if required by Racine County, by a qualified consultant with a written report being delivered to the Homeowner’s Association and Village.

- iii. Water, for Subdivisions located outside the Urban Service Area shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the State of Wisconsin and the Village. The use of shared or community wells is encouraged. Plans for shared or community wells shall include a wellhead protection plan with separation distances for the zone of influence and sources of pollution. Where the Village Board approves of the addition of the parcel being subdivided to the applicable utility district or sanitary district in accordance with state statutes, the subdivision shall be served by municipal water facilities.
  
- b. **Sewage and Water Facilities for Subdivisions Located Within the Urban Service Area; Service by Caledonia Sewer Utility District No. 1 and Caledonia Water Utility District No. 1**
  - i. All Subdivisions located within the Urban Service Area for Caledonia Sewer Utility District No. 1 and Caledonia Water Utility District No. 1 shall be served by municipal sewer and water facilities owned and operated by the District. All sewer and water facilities shall be installed in accord with the following:
    - a) All work, including installation of laterals, shall be performed under contracts between the Village and the construction contractor. The letting and awarding of such contracts shall be in accordance with state law relating to the letting of contracts by municipalities for public work. All plans and specifications as to such sewer or water work shall be prepared by the Utility District Engineer. The Utility District Engineer shall perform all engineering construction and inspection services with respect to such sewer and water work.
    - b) The Subdivider shall pay the cost of such work, including the installation of laterals and hydrants and including engineering, inspection, legal and administrative expenses. Payment shall be made as provided in subparagraph 1. below or, at the option of the Village, as provided in subparagraph 2. below.
      - 1. The Subdivider shall pay to the Village 100% of the estimated cost of such work prior to the commencement thereof. An adjustment upward or downward of such cost either in the form of a further payment by the Subdivider or a refund by the Utility District, shall be made within thirty (30) days after the approval of the final payment to the contractor and receipt of all statements of expenses by the Utility District.

2. The Subdivider shall execute a waiver of special assessment notices and hearings thereon and agree that the Village may finance the cost of installation of the sewer and/or water systems by the levy of special assessments in such amounts as to each parcel of land as are determined by the Village Board to be equitable and in accordance with law. Such special assessments shall bear interest as determined by the Village Board and such special assessments for sewer and/or water shall be payable in as many equal annual installments, not to exceed ten (10), as determined by the Village Board, the first of which shall be due and payable on the tax roll of the next succeeding year.
- c) The estimated cost of the work for the purposes of Section 14-3-4(c)(6)b above shall be determined by the Utility District or its designee, and for the purposes of determining special assessments under Section 14-3-4(c)(6)b above shall be determined by the Village Board, and sections 66.0703(2) and 66.0703(3) of the Wisconsin Statutes as amended from time to time shall apply thereto in either case. The Subdivider shall not be compelled to bear the cost of mains in the subdivision in excess of the size and depth as needed to serve such subdivision which are installed to transmit sewage from other sources, in addition to the subdivision. The Utility District Engineer shall determine the cost of such differences as will be borne by the Village and/or Utility District.
  - d) The Subdivider or lot owner of record shall pay to the Village Treasurer for the benefit of the applicable Utility District such sewer and/or water connection charges as are currently being charged by the utility district at the time a building permit is secured. These connection fees are in addition to the permit fees payable to the Plumbing Inspector for sewer and water connections.
  - e) In each and every case wherein such subdivision is not located adjacent to existing sanitary sewer and/or water mains, or storm water drainage facilities, which are of such size and construction as will adequately service the subdivision, the Subdivider shall agree to pay all or such percentage of the cost, including engineering, legal, and administrative costs, of the sanitary sewer and/or water mains, or storm water drainage facilities, which must be constructed to service said subdivision, including the acquisition costs of easements, as the Village Board shall determine to be equitable and financially feasible for the

Village. The sum due shall be estimated by the Utility District and shall be due and payable at the time of the approval of the final plat by the Village Board; provided that the Subdivider shall be liable for any costs in excess thereof. The Village Board and/or applicable Utility District may enter into contracts with third persons who desire to connect up to such line, whereby such third persons will pay to Subdivider an equitable proportion of such cost computed on a lineal foot-basis.

- f) The agreement shall provide that it shall create personal liability to the Subdivider for the costs and charges incurred by the Village and/or Utility District for the installation of required improvements and that without the agreement the Village would refuse the approval of the final plat, and that any plat approval is conditioned upon the execution of the agreement.
- g) The agreement shall provide that the Subdivider guarantees the payment of each and every installment of special assessments on each and every parcel of land in said subdivision, and within ten (10) days after default in the payment of any installment the Subdivider agrees to pay to the Village said unpaid installment, together with interest and penalties, if any, on each and every parcel of land in said subdivision.
- h) The agreement shall further provide that the Subdivider will not sell any land subject to special assessments and in the event of sale of any piece or parcel of land by deed, land contract, or otherwise, after special assessments have been levied, Subdivider shall, within ten (10) days after such sale, pay to the Village any and all remaining unpaid installments, together with interest and penalties, if any, affecting the land so sold.i) The agreement shall further provide that the Subdivider, in the event of sale of any piece or parcel of land by deed, land contract, or otherwise prior to the time special assessments have been levied, shall, within ten (10) days after receipt of notice by the Town of the fact that special assessments have been levied, pay to the Town any and all of such special assessments, together with interest and penalties, if any, affecting the land so sold.
- i) The agreement shall further provide that the Subdivider, in the event of sale of any piece or parcel of land by deed, land contract, or otherwise prior to the time special assessments have been levied, shall, within ten (10) days after receipt of notice by the Village of the fact that special assessments have been levied, pay to the Village any and all of such

- special assessments, together with interest and penalties, if any, affecting the land so sold.
- j) The agreement shall further provide that its terms and provisions shall extend to the heirs, administrators, successors in title and assigns of the Subdivider. The agreement shall further provide that personal liability shall extend to successors in title and assigns of the Subdivider.
  - k) The agreement shall set forth other pertinent provisions contained above in section 14-3-3(g).
- ii. As a complete alternative to installing sewer and water facilities in accord with 14-3-4(c)(6)b.i, the Subdivider may choose to privately design and construct such facilities, subject to entering into an agreement with the Village and District which shall include, but is not limited to, the following terms and conditions:
- a) Pertinent provisions set forth above in sections 14-3-3(g).
  - b) The District shall review and approve all design and construction plans.
  - c) The contractor chosen by the Subdivider must be approved by the District, which approval shall not be unreasonably withheld, and the contractor shall be a party to the agreement.
  - d) The District's engineer shall inspect all work performed. The District's engineer shall have the right and full authority to stop work that is not in conformity with the approved plans and specifications.
  - e) The Subdivider shall post an irrevocable letter of credit to guarantee performance. Such security shall cover 120% of the estimated cost of the project. Such estimated cost shall be provided by the District's engineer. From time to time, during the course of the construction work, the District may release at the request of the Subdivider pro rata portions of the letter of credit, based upon the percentage of completion of the project. At least 20% of the amount of the letter of credit, however, shall be retained through the letter of credit during the one year guarantee time period.
  - f) Guarantee by Subdivider for one year beyond date of acceptance of work. Upon acceptance, the sewer and/or water facilities become the property of the District.
  - g) The Subdivider shall pay all of District's engineering, planning, legal and administrative costs pertaining to the project..
  - h) The District, Village and the District's engineer shall be added as additional insureds to insurance policies covering the work and project.



- iii. Any request for modification or waiver of the above provisions shall be made and considered in accordance with Section 14-3-1(k) of the Village's Code of Ordinances. In considering a modification or waiver request, the Plan Commission and Village Board shall also consider the criteria set forth by Resolution of the Village Board.
  - c. **Sewage and Water Facilities for Subdivisions Located Within the Urban Service Area; Service by other Utility Districts.** All subdivisions located within the Urban Service Area for other Village utility districts shall be served by municipal sewer and water facilities on such terms as are acceptable to the applicable utility district commission.
- (7) **Storm Water Management.**
- a. Conservation Subdivisions shall comply with all rules and regulations of the Town's storm sewer utility districts, as set forth in Title 9 of the Town's Code of Ordinances, and the Town's Construction Site Erosion Control Ordinance contained in Title 15, Chapter 2 of the Town's Code of Ordinances.
  - b. Conservation Subdivisions shall comply with other applicable town, county, state and federal requirements pertaining to storm water. To the extent there is a conflict among the provisions of the various jurisdictions, the more stringent provision shall govern.
  - c. **Drainage.** The Town Board, as a condition precedent to the acceptance of the subdivision plat, may require the Subdivider to construct and install such storm water drainage facilities as the Town Board determines to be reasonably necessary, to provide for the ultimate drainage of, through or from the subdivision to a proper drainage outlet or to prevent the flooding or saturation of lands within the subdivision or within the vicinity of the subdivision. The facilities required shall be as indicated on the Town of Caledonia Comprehensive Drainage Plan, or other alternative methods consistent with NR151 and NR216 of the Wisconsin Administrative Code and employing ecological planning and conservation principles, unless in the judgment of the Town Board circumstances require more extensive facilities. Should the subdivision disrupt any natural existing drainage course, the Subdivider is responsible for relocating this course to the satisfaction of the Town Engineer and allowing the natural flow of storm water.
- (8) **Other Utilities.**
- a. The Subdivider shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision or condominium.
  - b. Plans indicating the proposed location of all gas, electrical power, telephone, and other communications, distribution and transmission lines required to serve the subdivision or condominium shall be submitted to the Town Engineer.
- (9) **Street Signs.**

The Subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the Town Engineer. The Town may require additional signs to be installed within the Subdivision as it deems necessary. The Subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision. However, the Town shall procure and install the street signs.

- (10) **Street Lights.** Ornamental street lights shall be required within the Subdivision, except that standard street lights shall be placed at the entrance to the Subdivision. The installation, maintenance and repair costs for said lights shall be the sole responsibility of the Subdivider, or its successors and assigns, until the street is accepted by the Town Board. The Subdivider shall install streetlights in areas deemed necessary in the judgment of the Town Engineer or the controlling agency. The Town Engineer may require a lighting design plan to be submitted. Said lights must be approved by the Town and WE Energies. The Subdivider shall also be responsible for payment of the applicable street light fee per light, as set by resolution of the Town Board from time to time, which fee represents the cost of operating each light for the first three years of operation. This section applies in both rural and urban areas, although the purpose and intent of this section is to avoid an urban appearance in rural areas.

(11) **Street Trees.**

- a. The Subdivider shall plant or provide funding for the planting of one tree of a species approved by the Plan Commission of at least two inches in diameter measured at six inches above the top of the root ball at an average spacing of 40 feet or less along the frontage of each side of all streets proposed to be dedicated. If curb and gutter are present, the required trees shall be planted in the area between the property line and curb in accordance with plans and specifications approved by the Town Engineer. If drainage swales are utilized within the right-of-way, the trees shall be planted outside of the right of way. A mixture of trees shall be chosen from an approved species list provided by the Town. The purpose of this section is to eventually achieve a vegetative canopy over the right of way. Regular spacing, however, can have a strong urban appearance; to avoid this in rural areas, the Town may permit trees to be grouped in irregular and informal patterns. Trees should be planted along streets in front of dwelling units, but not necessarily along streets that pass through Common Open Space as such placement can produce the appearance of an urban park instead of a natural rural area. Existing healthy trees should be permitted to fulfill the street tree requirement.
- b. The requirement for street trees may be waived by the Plan Commission if substantial alternative landscaping, including natural features, is to be provided along the frontage of all streets in the Conservation Subdivision in accordance with a landscaping plan approved by the Town Plan Commission and Town Engineer.

- (d) **Security and Financial Guarantee.** The Town Board, as a condition precedent to the acceptance of the subdivision plat, may require the Subdivider to file cash, letter of credit

or a performance bond with the Town guaranteeing compliance with the terms and conditions of the contract specified herein. Such security shall be in such amount and with such sureties as shall meet with the approval of the Town Board. The amount of the security shall in no way limit the Subdivider's liability.

- (e) **Sales and Construction.** No owner of any land abutting upon any road or highway or part thereof, accepted as a part of a subdivision pursuant to the terms of this Ordinance or abutting upon, adjacent to or crossed by any drainage easement, drain, or other improvement required as a condition of plat approval shall offer for sale any of such land nor shall any building permits be issued by the Town with respect to such land, unless and until such proposed drainage easement, drain or other improvement and first binder course of asphalt and installation of curb and gutter, if applicable, shall have been constructed according to the terms and provisions of this Ordinance and the conditions of plat approval. No building permit shall be issued for any subdivision prior to submission by the Subdivider of as-built grading plans for the subdivision to the Town Engineer.

#### **SEC. 14-3-5 OWNERSHIP AND MAINTENANCE OF COMMON OPEN SPACE AND COMMON FACILITIES.**

- (a) **Alternatives.** The designated Common Open Space and/or Common Facilities may be owned and managed by one or a combination of the following subject to Town Board approval:
- (1) A Homeowners' Association.
  - (2) A Condominium Association established in accordance with the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes.
  - (3) A Non-Profit Conservation Organization.
  - (4) The Town or another governmental body empowered to hold an interest in real property.
  - (5) An individual who will use the land for Common Open Space purposes as provided by a Conservation Easement.
- (b) **Conservation Easement.** Common Open Space and/or Common Facilities shall be subject to a Conservation Easement conveyed to a qualified holder.
- (c) **Homeowners' Association.** A Homeowners' Association shall be established if the Common Open Space and/or Common Facilities are proposed to be owned by a Homeowners' Association. Membership in the association is mandatory for all purchasers of homes in the development and their successors.

The Homeowners' Association bylaws, guaranteeing continuing management of the Common Open Space and/or other Common Facilities, and the declaration of covenants, conditions and restrictions of the Homeowners' Association shall be submitted for approval to the Town as part of the information required for the preliminary plat. The Homeowners' Association bylaws or the declaration of covenants, conditions and restrictions of the Homeowners' Association shall contain the following information:

- (1) The legal description of the proposed Common Open Space;
- (2) A description of Common Facilities;
- (3) The restrictions placed upon the use and enjoyment of the Common Open Space

- and/or Common Facilities;
- (4) Persons or entities entitled to enforce the restrictions;
  - (5) A mechanism to assess and enforce the common expenses for the Common Open Space and/or Common Facilities including upkeep and management expenses, real estate taxes and insurance premiums;
  - (6) A mechanism to implement restoration, maintenance and management of the Common Open Space and/or Common Facilities;
  - (7) A mechanism for resolving disputes among the owners or association members;
  - (8) The conditions and timing of the transfer of ownership and control of Common Open Space and/or Common Facilities to the Association;
  - (9) Any other matter the Subdivider deems appropriate.
- (d) **Condominium Association.** If the Common Open Space and/or Common Facilities are to be held under the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the Common Open Space and/or Common Facilities. The condominium instruments shall be submitted for approval to the Town as part of the information required for the preliminary plat and shall include the information specified under subsection 14-3-5(c)(1)-(9). All Common Open Space and Common Facilities shall be held as a “common element” as defined in section 703.02(2) of the Wisconsin Statutes.
- (e) **Non-Profit Conservation Organization.** If the Common Open Space and/or Common Facilities are to be held by a Non-Profit Conservation Organization, the organization must be acceptable to the Town. The conveyance to the Non-Profit Conservation Organization must contain appropriate provisions for reversion or succession to a subsequent Non-Profit Conservation Organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- (f) **Public Dedication of Common Open Space.**  
The Town may accept the dedication of a Conservation Easement or fee title to the Common Open Space and/or Common Facilities, provided:
  - (1) The Common Open Space and/or Common Facilities are as accessible to the residents of the Town as they are to members of the general public.
  - (2) The Town agrees to and has access to maintain and manage the Common Open Space and/or Common Facilities.
- (g) **Separate Ownership.** An individual may hold fee title to the land while a Non-Profit Conservation Organization or other qualified organization holds a Conservation Easement prescribing the acceptable uses and obligations for the Common Open Space and/or Common Facilities.
- (h) **Stewardship Plan.** Every Conservation Subdivision must include a plan that provides a means to properly manage the Common Open Space in perpetuity and the long-term means to properly manage and maintain all Common Facilities. The plan shall be approved by the Town in conjunction with the Development Agreement prior to or as a continuing condition of final plat approval and shall be in the format as set by resolution of the Town Board from time to time and shall comply with subsection 14-3-3(h)(4).
  - (1) The plan shall do the following:
    - a. Designate the ownership of the Common Open Space and/or Common Facilities in accordance with section 14-3-5(a).
    - b. Establish necessary regular and periodic operation and management

- responsibilities.
- c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
  - d. Include a land Stewardship Plan specifically focusing on the long-term management of Common Open Space lands. The land Stewardship Plan shall include a narrative, based on the site analysis required in section 14-3-3(b) describing:
    - i. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the Conservation Easement.
    - ii. The proposed end state for each Common Open Space area; and the measures proposed for achieving the end state.
    - iii. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
    - iv. The operations needed for managing the stability of the resources for five (5) years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the Town's discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the Common Open Spaces and/or Common Facilities for a maximum of five (5) years.
    - v. Education component for educating the homeowners on the Stewardship Plan and status of the Common Open Space. The holder of the Conservation Easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.
    - vi. Any Stewardship Plan of an abutting Subdivision that has a Stewardship Plan in place and addressing any impact that Stewardship Plan may have on the proposed Subdivision.
  - e. If ownership is vested in a Homeowner's Association or a Condominium Association, then the Association must contract with a competent contractor, such as a Professional Ecological Service, as approved by the Town to oversee and sustain the plan. The Town's approval shall not be unreasonably withheld.
  - f. Any Stewardship Plan that incorporates burning as a means of managing Common Open Space shall require approval by the Fire Chief. The Subdivider or its successors and assigns shall be responsible for complying with Sec. 5-2-20 of Town's ordinances and for reimbursing the Town for costs related to attendance, by the Fire Department, during any approved open burning, to ensure safety of persons and property.
- (2) In the event that the organization established to own and manage the Common Open Space and/or Common Facilities, or any successor organization, fails to manage all or any portion of the Common Open Space and/or Common Facilities in

reasonable order and condition in accordance with the management plan and all applicable laws, rules, and regulations, the Town may serve written notice upon such organization and upon the residents and owners of the Common Open Space and/or Common Facilities, setting forth the manner in which the organization has failed to manage the Common Open Space and/or Common Facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town may enter the premises and take corrective action.

- (3) The costs of corrective action by the Town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the Common Open Space and/or Common Facilities and shall become a lien on said properties. The Town, at the time of entering upon such Common Open Space and/or Common Facilities for the purpose of management, shall file a notice of such lien in the office of the County Register of Deeds upon the properties affected by such lien.
- (4) Stewardship Plans may be amended by the owner identified under section 14-3-5(a) with the approval of the Town Board.
- (5) The Town may require the Common Open Space to be inspected and assessed annually by the holder of the Conservation Easement or an independent professional ecologist or may contract with an independent individual, organization, or business, for a periodic assessment of the Common Open Spaces and/or Common Facilities of the development to ensure compliance with the Stewardship Plans. The cost for this periodic assessment of the Common Open Spaces and/or Common Facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the Common Open Spaces and/or Common Facilities and shall become a lien on said properties if not paid.

#### **SEC. 14-3-6 TEMPORARY MORATORIUM ON LAND DIVISIONS.**

(a) **Findings of Fact Supporting the Need for an Extension of Temporary Moratorium.**

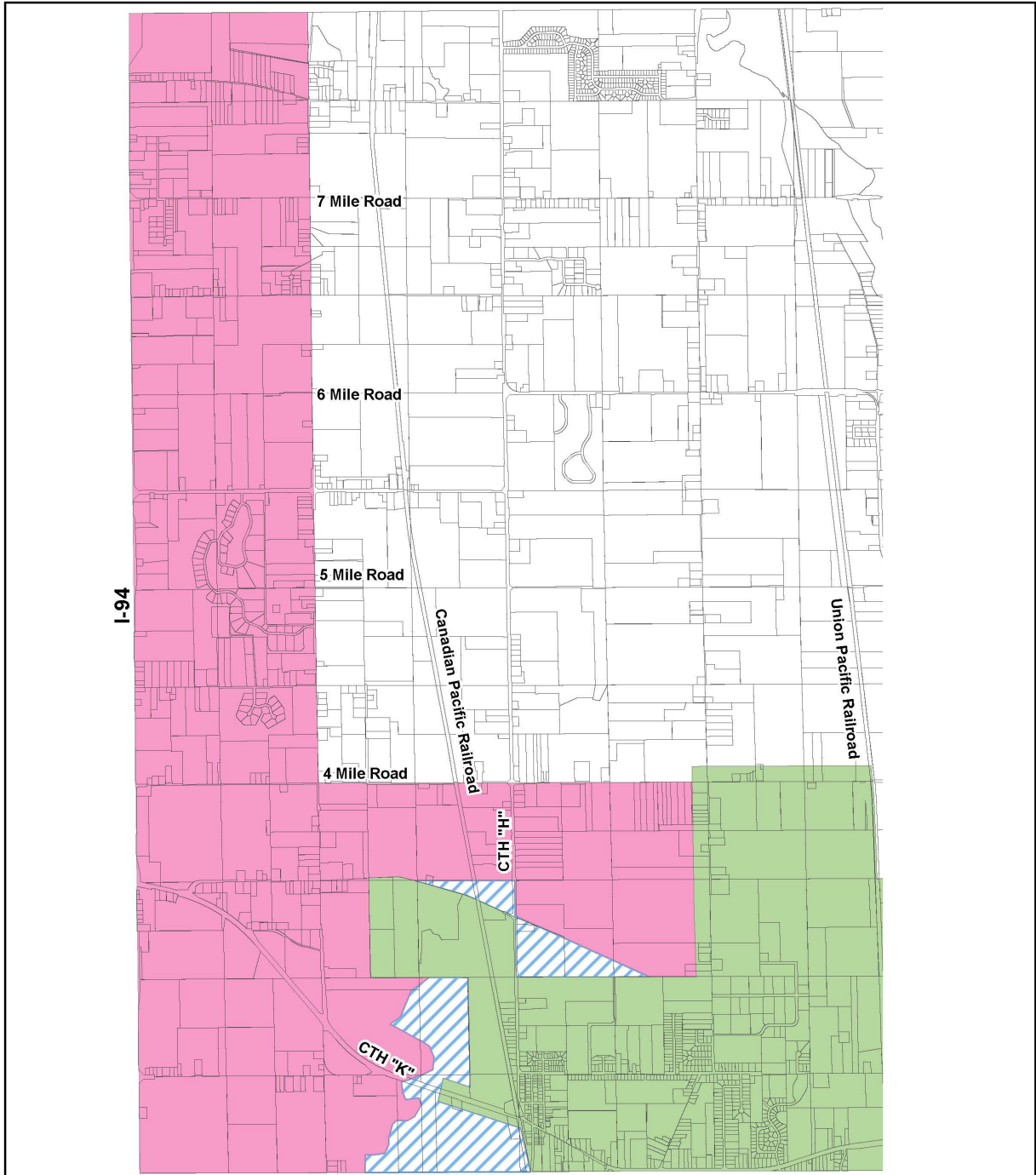
- (1) Through land use planning efforts, the Village has determined that it is important to plan for potential urban development in the corridor along I-94.
- (2) As set forth in §236.45, Wis. Stats., the purposes of land use planning are to provide for the beneficial and harmonious development of land within the Village of Caledonia, which will, in accordance with existing and future needs, best promote the public health, safety and general welfare of the community by: lessening congestion in the streets and highways; furthering the orderly layout and use of land; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of the population; facilitating adequate provision for transportation, water, sewerage, schools, parks, playgrounds,

- and other public requirements; preserving critical natural resources and historical areas; giving reasonable consideration to the character of the Village with a view toward conserving and enhancing the value of the buildings placed upon land; providing the best possible environment for human visitation; and encouraging the most appropriate use of land throughout the Village of Caledonia.
- (3) The Village worked with the Southeastern Wisconsin Regional Planning Commission (“SEWRPC”) to create a land use plan implementation strategy for those areas of the Village that are not served by public sanitary sewer (“Rural Land Use Plan”). The areas addressed in the Rural Land Use Plan include those areas designated on the Caledonia Land Use Plan as “agricultural”, “country lots”, and “reserve.” The Rural Land Use Plan recommended that consideration be given to accommodating urban development along I-94 with additional studies being conducted for this area to determine the extent and type of urban development to be accommodated during the W-2 neighborhood planning process.
  - (4) The W-2 Neighborhood Plan, which encompasses a portion of the I-94 corridor, was adopted by the Village on August 2, 2005 and recommended that the sanitary sewer service area be extended to include generally the area of the Village between I-94 and County Highway V.
  - (5) The planning process undertaken by the Village involved significant participation of the public through such tools as opinion surveys, focus-group meetings with land owners, informational mailings, public meetings, and public hearings.
  - (6) The Village has determined that in order to effectively service the I-94 Corridor in the most cost effective manner, sewer and water service should be extended from the current sewer service area and therefore, has requested the Racine Wastewater Utility Commission, SEWRPC, and the Department of Natural Resources (“DNR”) to amend the sanitary sewer service area to include the proposed areas identified with hash marks on the map entitled “Existing SEWRPC 208 & Amended Franksville Sanitary Sewer Service Areas”, attached hereto as in Exhibit A. A decision on the amendment of the boundaries of the sewer service area as to the “Proposed Amended SEWRPC 208 Area Per Franksville Facility Plan” is expected from SEWRPC on or about March of 2006, with DNR approval before the end of 2006. After completion of a related engineering study, the Village will be requesting amendment of the sewer service area to encompass the additional territory identified on Exhibit A as the “Proposed I-94 SEWRPC 208 Amendment Area.” It is the Village’s intent to complete that action before the end of the calendar year 2006.
  - (7) Because of statutory requirements, the Village and SEWRPC will need additional time beyond December 31, 2005 to modify the sewer service area boundary lines to encompass the proposed areas identified on Exhibit A as becoming part of the sanitary sewer service area.

- (8) It is important to maintain the status quo within the areas proposed to be added to the sanitary sewer service area until the sewer service area boundaries are modified to include these areas.
  - (9) An enactment of the temporary moratorium on the division of land within the designated areas is necessary to prevent irreparable injury to the Village and its citizens during this period of time.
- (b) **Enactment of Temporary Moratorium on Land Divisions.**
- (1) Proposed Land Splits under Title 14, Chapter 1 (“Land Divisions”) within and pertaining to the areas proposed to be added to the sanitary sewer service area as described as Exhibit A to be accomplished by certified survey map, shall not be approved by the Village Board for a period of one (1) year from the effective date of this Ordinance, unless the proposed amendments to the sewer service area are approved and added before the expiration of this moratorium, in which case the moratorium may be lifted by Village Board Resolution as to those areas added to the sewer service area.
  - (2) Proposed Subdivisions under this Chapter within and pertaining to the area proposed to be added to the sanitary sewer service area as described on Exhibit A whether to be accomplished by subdivision or condominium plat, or as a planned unit development, shall not be approved by the Village Board for a period of one (1) year from the effective date of this Ordinance, unless the proposed amendments to the sewer service area are approved and added before the expiration of this moratorium, in which case the moratorium may be lifted by Village Board Resolution as to those areas added to the sewer service area.
  - (3) The Village of Caledonia Plan Commission is hereby directed to discontinue the acceptance, review, and approval of all affected subdivision and condominium plats, including concept plans, plans submitted as planned unit developments, and certified survey maps during the period that this Ordinance is in effect.
- (c) **Exceptions.**
- (1) Any final subdivision or condominium plat, in which the preliminary plat had been submitted to the Plan Commission for approval prior to the effective date of Ordinance 2002-25 providing for the initial one (1) year temporary moratorium on land divisions, shall be exempt from the provisions of subsection (b) above, provided the final plat is substantially in accord with the approved preliminary plat and applicable Village Ordinances and Wisconsin Statutes.
  - (2) Any certified survey map recommended for approval by the Plan Commission, prior to the effective date of Ordinance 2002-25 providing for the initial one (1) year temporary moratorium on land divisions, shall be exempt from the provisions of subsection (b) above.
- (d) That this ordinance shall take effect on December 31, 2005 and expire on December 31, 2006.



**EXHIBIT A**






**EXHIBIT "A"**  
Existing SEWRPC 208 & Amended  
Franksville Sanitary Sewer Service Areas



- Proposed Amended SEWRPC 208 Area per Franksville Facility Plan
- Existing SEWRPC 208 Sanitary Sewer Service Area
- Proposed I-94 SEWRPC 208 Amendment Area



September 2005 1053409

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